



REPUBLIC OF TRINIDAD AND TOBAGO

Debates of the House of Representatives

3rd Session – 10th Parliament (Rep.) – Volume 17 – Number 23

**OFFICIAL REPORT
(HANSARD)**

THE HONOURABLE WADE MARK
SPEAKER

THE HONOURABLE NELA KHAN
DEPUTY SPEAKER

Friday 15th March, 2013

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**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT
IN THE THIRD SESSION OF THE TENTH PARLIAMENT OF THE REPUBLIC OF
TRINIDAD AND TOBAGO WHICH OPENED ON JUNE 18, 2010**

SESSION 2012—2013

VOLUME 17

HOUSE OF REPRESENTATIVES

Friday, March 15, 2013

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from Mr. Fitzgerald Jeffrey, Member of Parliament for La Brea, who has asked to be excused from today's sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID

1. Annual Administrative Report and the Audited Financial Statement of Accounts of the Central Bank of Trinidad and Tobago for the year ended September 30, 2012. [*The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal)*]
To be referred to the Public Accounts Committee.
2. Ministerial response to the Sixth Report of the Joint Select Committee of Parliament on Ministries, Statutory Authorities and State Enterprises (Group 2) on the East Port of Spain Development Company Limited. [*Hon. Dr. R. Moonilal*]
3. Regional Health Authorities (Contracting for Goods and Services) (Amendment) Regulations, 2013. [*The Minister of Health (Hon. Dr. Fuad Khan)*]
4. Annual Administrative Report of the Police Complaints Authority for the period October 01, 2011 to September 30, 2012. [*The Deputy Speaker (Mrs. Nela Khan)*]

DEFENCE (AMDT.) BILL, 2013

[Third Day]

Order read for resuming adjourned debate on question [March 08, 2013]

That the Bill be now read a second time.

Question again proposed.

Mr. Speaker: Hon. Members, you would recall on the last occasion the Member for Port of Spain South was on her legs and she has 28 minutes of original speaking time left. I will now call upon the hon. Member for Port of Spain South to continue her contribution. [*Desk thumping*]

Miss M. Mc Donald: Thank you, Mr. Speaker. Mr. Speaker, on Wednesday I indicated that the Government has come to this Parliament requesting yet another amendment to the legislation to deal with crime, this time an amendment to the Defence Act where the only way I can put it is that it is ill-conceived, unworkable. And why? Because it seeks to turn soldiers into police.

Mr. Speaker, I was at the point of demonstrating and clarifying the separate role of the police service as opposed to the defence force. Mr. Speaker, the police is a constituted body of persons, empowered by the State to enforce the law, protect property and limit civil disorder. As early as 1829, Sir. Richard Mayne, a British writer, says this about the police force, and I quote:

“The primary object of an efficient police is the prevention of crime: the next that of detection and punishment of offenders if crime is committed. To these ends all the efforts of police must be directed. The protection of life and property, the preservation of public tranquillity, and the absence of crime, will alone prove whether those efforts have been successful and whether the objects for which the police were appointed, have been attained.”

So since 1829, Mr. Speaker, the duties of the police were, one, the prevention of crime, the detection of crime, the punishment of offenders, the protection of life and property, the preservation of public tranquillity. Mr. Speaker, those duties were relevant back in the 19th Century and they are still relevant today in the 21st Century.

Mr. Speaker, with respect to the defence force, the defence force primarily is in defence of the realm. They are in preparation for the defence of the State against any armed attack. They also perform peace-keeping duties, crisis management and humanitarian relief operations. Then the third major duty is miscellaneous civil contingencies requested by the Government, example: search and rescue missions.

Mr. Speaker, I turn my attention to the differences between the police and the army. The police force, like the military, is part of the coercive arm of the State. Both of them—the police and the army—are uniformed; they are disciplined and they are armed but yet they are different in so many ways. In the first instance, the police enforce the law and are responsible for protecting domestic affairs. The

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army, on the other hand, protects the defence of the realm and has no jurisdiction over the citizens in a country. So, Mr. Speaker, the police is closer and more integrated in the social life of our country, as opposed to the military, which remains apart and alienated from us.

Mr. Speaker, the second difference I see between both entities, the police and the army, the police arms are primarily for self-defence whilst the military uses arms for defending the country.

Mr. Speaker, I just want to give a little background as to the development of the police service and even the defence force in Trinidad and Tobago. Pre-independence—I will take you back there; that is in the colonial period, before 1962—we had a police force, not a police service. The difference was that in the old police force, there was a constabulary charged with the duty of maintaining internal law and order and also guarded against any external aggression. Mr. Speaker, for this purpose, the police then, in our colonial period, they were an armed force and they were given specific duties for internal security and to resist external aggression.

Mr. Speaker, with the coming of independence in 1962, of course we moved from being a colony to being an independent nation, and being an independent nation we bred new institutions into our system. We had a different approach to doing things post-1962. It is in those circumstances, Mr. Speaker, that the police then became a separate and distinct entity from the army. The defence force was established in 1962 and its mission is to defend the sovereign good of the Republic of Trinidad and Tobago; contribute to the development of the national community and support the State in the fulfilment of its national and international objectives.

So, Mr. Speaker, what we have here, post-1962, are two entities being governed by two separate pieces of legislation: the Police Service Act, on the one hand, and the Defence Act on the other hand. The two functions are now distinct. There is the police power and there is the military power, serving separate and distinct roles and requiring, Mr. Speaker, separate and distinct orientation and training.

The police motto is: To protect and serve with pride. Mr. Speaker, to fulfil their respective roles—both the army and the police—they undergo separate and different training. The police are trained to prevent, to investigate, to detect and prosecute criminal activities. In the military, it is said the object of training is to teach the soldier the most effective means to eliminate the enemy.

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So, Mr. Speaker, these are two distinct methods of training which result in the individual—both individuals; both the army personnel and the police personnel—having a totally different attitude and approach in dealing with situations. Soldiers, Mr. Speaker, are not trained to investigate and ask questions and detect crime, nor are they expected to when confronted with threatening situations.

Mr. Speaker, I am looking at the bigger picture and I know that my colleagues on the other side—I heard how the Member for Tabagite behaved on Wednesday. They really do not want us to say exactly how we see this amendment. But, Mr. Speaker, I have to say that there is a danger. And what is that danger that is lurking that we see in the future? We see this amendment as the first step in trying to institutionalize the involvement of military power in matters of civilian government.

That is what we see down the road, Mr. Speaker. This is the first step, however small, towards the introduction of a form of militarism in our democratic form of government, and do not tell me it cannot happen in Trinidad and Tobago, Mr. Speaker. There are examples from countries near and far where this has taken place.

Mr. Speaker, if we start this trend, I say here today, Friday, March 15, 2013—if we start this trend, we will start breeding a culture of military involvement in the day-to-day affairs of our country. Is this what we want, Mr. Speaker? I do not think that is what this country voted for on May 24, 2010—certainly not.

Mr. Speaker, I turn my attention to the legal issues. I decide to look at the Bill because I do not think that the other side gave us the benefit of really going through all those various pieces of amendments they brought. We came with one Bill last week Friday, the 8th, and we got an amendment. We came back again on Wednesday 13, and yet another amendment, and from what I heard in the public domain, we might be getting more amendments today.

1.45 p.m.

So, Mr. Speaker, I do not know if what I am saying here would be germane to whatever would be coming, because we have not been shown their respect. We have not been shown that respect of providing us with the amendments, so we can study those amendments before we come to this Parliament. But, at another time we will talk about that.

So, Mr. Speaker, I have about five points that I want to raise, and on those five points I think that the Government, at the end here this afternoon, should just

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withdraw this Bill. I always say that there is no room for ego in this Parliament, and I think that this Bill, which was ill-conceived, should be withdrawn, go back to the drawing board, hold your consultations and return to this Parliament. [*Desk thumping*]

Mr. Speaker, I am looking at a point, the police and the Constitution—I put it under little headings—the police service and the Constitution of Trinidad and Tobago. What is happening here? The first question I asked myself when I looked at the amendment, I asked: what is the source of power for police officers; and who is qualified legally to appoint police officers in Trinidad and Tobago? Those are the questions I asked myself.

Mr. Speaker, I turn my attention to the Constitution of Trinidad and Tobago for guidance. We come in here to this legislature, we need to do things right. Who in this country can appoint police officers? Mr. Speaker, section 123A (2) of the Trinidad and Tobago Constitution states:

“The Commissioner of Police shall have the power to—

(a) appoint persons to hold or act in an office in the Police Service...”

There was an amendment; this is 2006 amendment. I will just go back a little bit. In 1962, it would have been the Police Service Commission. An amendment was made where the section was repealed in 2006 and, the appointment has been removed from the Police Service Commission and now resides in the Police Commissioner himself.

Now the question is: did the Minister adhere to this procedure as contained in section 123? Why can we not go through? Why can we not go the normal route, the legal route via the Constitution? Why was the Commissioner of Police not involved in the appointment of these police officers? Why? Mr. Speaker, I wish to point out that this is tantamount to a subversion of our Constitution. This is a roundabout way of altering the Constitution. We have a situation developing here, via this amendment, where the Minister of National Security would be responsible for hiring these “soldier police”. This is not the function of the Minister under our Constitution.

You see, Mr. Speaker, I have to take you back. This was the idea behind the setting up, the establishment, of a police service commission in post-independence. Why? It was to insulate the police service from the long hands of the politicians, and that is one of the mechanisms we set up, to protect and

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insulate the police service. So when I see something like this happening, it flies in the face of what our founding fathers, what our constitutional framers, were trying to do.

Mr. Speaker, I want to draw your attention and read from a case *Endell Thomas v Attorney General*. It is a Privy Council decision and this is Lord Diplock stating. He said:

“In the case of an armed police force with the potentiality for harassment that such a force possesses, the power of summary dismissal opens up the prospect of converting it into what, in effect, might function as a private army of the political party that had obtained the majority of the seats in Parliament at the last election.”

He said the whole purpose of Chap. 9 of the Constitution—Chap. 9 speaks to all the different commissions. The public service—[*Interruption*] Mr. Speaker, I am hearing a drone on the other side. Could you protect me, please?

Mr. Speaker: Members, Members, the Member is being disturbed and is seeking my protection. Please! Continue.

Miss M. Mc Donald: Thank you, Mr. Speaker. Mr. Speaker, that section speaks to the service commissions. It speaks to the Public Service Commission, the Teaching Service Commission and the Police Service Commission, and do you know why it was set up in the Constitution? I am going to read it here what Lord Diplock said. He said:

“The public service”—in the setting up of these commissions—“is to insulate the members of the civil service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the government of the day. The means adopted for doing this was to vest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotions and transfers within the service and the power to remove...”—would be controlled by the service commission.

Mr. Speaker, from what I understand here, what is happening, it is wrong. It is wrong, it is unconstitutional.

Mr. Speaker, someone ill-advised the Attorney General that he can reproduce section 3 of the Customs Act of Chap. 78:01 in the Defence Act and that could grant powers to the police. Now that is the furthest thing from the truth. Let me read section 3 of the Customs Act. Section 3 says:

“Officers to have powers of members of the Police Service

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For the purpose of carrying out the provisions of the Customs laws all Officers shall have the same powers, authorities and privileges as are given by law to members of the Police Service.”

Mr. Speaker, what section 3 of the Customs Act did, is that it grants the officers the power of the police, however, in the furtherance of their duties as customs officers. The Defence Act, what they are proposing to do with that proposed section, it is purporting—there is a big difference—to grant police powers to soldiers not in the execution of their duties as military persons, but in their execution of duties as police officers. [*Desk thumping*] Mr. Speaker, that cannot work.

Dr. Rowley: That is a big difference; big difference.

Miss M. Mc Donald: It cannot work. There is a big difference. Under the—and there is now the Motor Vehicles and Road Traffic Act, both of them, and the customs. You see, the Attorney General came here, “stand and balance himself” and said that, look, they have done this in the Customs Act, they have done it to the Motor Vehicles and Road Traffic Act and it be could be done. No, Mr. Speaker. Those powers given under those two pieces of legislation are in the furtherance of those officers in the execution of their duties, in one case as a road traffic officer, the other case as a customs officer. This Defence Act, this proposal, is in the execution of their duties, not as a military person, but as police officers governed by the Police Service Act. Mr. Speaker, that is clear, man. That is clear. What are we are doing here? This is the third day we are here. What are we doing here? This is simple.

Mr. Speaker, in essence, I am saying the source of power in the police comes from two sources, section 43 which gives the police the powers under the Commissioner of Police and the Police Service Commission. So, the question is: can the Defence Act grant these powers to the police? And the answer is no. Absolutely not!

The Attorney General then turned his attention and said he is going across the jurisdiction to see what happens in other areas in the Caribbean, and he looked at Jamaica. Mr. Speaker, section 9(3) of the Defence Act in Jamaica, yes, has given immunities, privileges, protection to members of the Defence Act, but in carrying out their duties as a military person. It has nothing to do in effecting their duties as police officers.

The distinction here is, in Trinidad and Tobago, the amendment that this Government is making is not a case where you are conferring these powers and

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immunities within the scope of the soldier's job. It is not! It is outside of the scope of the soldier's job. What you are doing is that you are conferring powers on him as a police officer and he does not fall under the regulations of the Police Service Regulations and the Police Service Act. He does not fall there. What are we doing? What are we doing? What are we doing, Mr. Speaker?

Mr. Speaker, my second point that I would want to make and I will label it: powers without responsibilities. This is yet another fundamental flaw in this amendment. The amendment gives to military men, these "soldier police", all these powers, but with protection and without the corresponding liability or responsibility for their actions, and that is what is important. Mr. Speaker, permit me to read section 43 of the Police Service Act. It says:

"Every police officer shall have all such rights, powers, authority, privileges and immunities, and is liable to all such duties and responsibilities, as any constable duly appointed now has or is subject or liable to, or may have or be subject or liable to under any written or unwritten law."

What this section has done, section 43 of the Police Service Act, is to hold the police officer liable for all his duties and responsibilities.

In other words, section 43 has given the police powers, but with responsibilities. What this amendment is doing, is giving the "soldier police" wide-ranging powers with protection and no liability, no responsibility, none whatsoever, for any acts of aggression, excessive force, abuse of his powers. But the police will be made to be accountable and the soldier is not accountable. That cannot be fair. You all are setting up a showdown. You are setting up a showdown between the police and the army. That is what you are doing.

Mr. Speaker let us look at the Special Reserve Police Act, Chap. 15:03, section 18(1). It says:

"Every member of the Special Reserve Police while on duty in the capacity of a member shall have, exercise and enjoy all the powers, authorities, privileges and immunities, and shall perform all the duties and have all the responsibilities of a member of the Police Service constituted under the Police Service Act."

Again, Mr. Speaker, like section 43 of the Police Service Act, this section holds the special reserve police accountable for his actions. It did not only give him the powers—did not only that—it also made this special reserve police officer liable for all those powers and whatnot, which would have been given to him under this Act.

2.00 p.m.

Mr. Speaker, this does not augur well; it does not augur well for our democracy. It does not. You are setting up, Mr. Speaker, as I said, “ah showdown”. Imagine you have both police and army outside there on an exercise, excessive force is used, the ordinary citizens in this country, they can go to the—the police will be made accountable for his action, and when you are trying to pin the soldier down, you cannot, because the section does not make the soldier responsible and liable for his action.

Mr. Imbert: And there are no regulations.

Miss M. Mc Donald: And they are not operating under any regulations of the police because they are not policemen.

Mr. Imbert: And they have immunities.

Miss M. Mc Donald: And they have immunities and I am going to talk about the immunities in a short while, which is something that has been held back in this Parliament for whatever reason, for whatever reason!

Mr. Speaker, this is where I go. I turn my attention to the issue of immunity. Having given these “soldier police” these wide-ranging powers, should there be a disciplinary matter involving the abuse of these powers, who will be reprimanding the soldier? Who? In other words, Mr. Speaker—and “yuh see”, this is important for constituencies like my constituency, Laventille East, Laventille West and all the constituencies where there are depressed areas. We saw what happened in the state of emergency. The first place they went to is Duncan Street, Nelson Street, George Street, Beetham, Sea Lots—[*Interruption*]

Dr. Rowley: Picked up thousands of people!

Miss M. Mc Donald:—and picked up thousands of persons. Mr. Speaker, that is why I am saying this here, because when you put these “soldier police” outside there, the ordinary citizen could have some kind of redress against the police, but you have no redress against the soldier because the soldier is immune. “Now, how you think de police feeling? How you think the police feeling” that they will be made accountable for the use of excessive force and the soldier operating next to him is immune? “How you think he is feeling?” This is badly crafted. This is not well-thought-out! [*Desk thumping*]

Mr. Roberts: “Yuh geh one clap.”

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Miss M. Mc Donald: Mr. Speaker, so the question is: what redress does an ordinary—"I doh need any clap, yuh know, D'Abadie/O'Meara. I need none."

Mr. Speaker: Do not take him on, just address me, please. Do not get into any crosstalk.

Dr. Rowley: Tell him he could keep his.

Dr. Moonilal: Focus on the Speaker. Nobody is clapping.

Dr. Rowley: Tell him keep it! Keep it!

Miss M. Mc Donald: Mr. Speaker, "Ah doh want to answer him, yuh know, because"—[*Interruption*]

Mr. Speaker: Do not answer him; just address me.

Miss M. Mc Donald: Mr. Speaker, I am addressing you because when "ah learn to speak Spanish, I will go back and talk to him". [*Laughter and desk thumping*]

Dr. Rowley: "Oui papa!"

Miss M. Mc Donald: "And if I cyah talk to him here, I'll go down by Room 201." [*Continuous interruption*]

Dr. Rowley: "Ay-ay-aye!"

Miss M. Mc Donald: Mr. Speaker, should there be abuse of powers, so the question is: what redress does an—[*Interruption*]

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Port of Spain South has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

Question put and agreed to.

Miss M. Mc Donald: Thank you, Mr. Speaker, and thanks to my colleague from Laventille West, and indeed, all my colleagues on this side, and of course, on the Government Bench. So the question I am asking: what redress does an ordinary citizen have against a soldier police?

Mr. Speaker, I turn to page 36 of the Attorney General's *Hansard* and I will give you the answer, what it is he told this House last Friday—Friday, March 08. This is what he said:

"Mr. Speaker, of course..."

—"yuh see, this is how he speaks, eh, very bravé dangé"—

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“Mr. Speaker, of course, in terms of discipline; if a member of the defence force on duty as a police officer commits a violation of the Police Service Regulations, then there is an in-built statutory self-regulating investigatory and judicial mechanism to treat with such allegations in the defence force.”

Now, Mr. Speaker, what is that?

Dr. Rowley: Rubbish!

Miss M. Mc Donald: “Eh, Mr. Speaker?” What is that—

Dr. Rowley: Court martial law.

Miss M. Mc Donald:—when you clearly set up a system where your amendment is saying that the “soldier police” is not liable. You did not attach any liabilities. The soldier is immune. This takes me into exploring the issue of immunity. This issue has not been discussed conveniently in this Parliament. Conveniently!

I got a hint from my friend, the Member for Diego Martin North/East last Friday when he did his debate. My colleague, the Member for Diego Martin North/East pointed out in his contribution that citizens will have great difficulty in obtaining redress if they are damaged or injured by these proposed “soldier police”. He said this is because soldiers are treated in law—I am reading from his *Hansard*—as a special case. I want to go a bit further this afternoon and say that there are many dangers and legal pitfalls in giving these proposed “soldier police”, police powers.

Mr. Speaker, I want to cite two cases. A 1996 case of *Mulcahy v Ministry of Defence*; it is found in 1996 Queens Bench Division at page 732. It is a Court of Appeal decision coming out of the United Kingdom. The English Court of Appeal concluded that a soldier did not owe a duty of care to their fellow soldiers or to civilians when engaging the enemy in battle conditions in the course of hostilities. This is what is known as the principle of combat immunity.

What is the principle of combat immunity? And I will say it loud and I will take my time. The principle of combat immunity is a common law principle. It operates to exclude civil liability for negligence and deliberate damage to property or to person committed by armed forces during combat. So that is during the war, any war that person might be involved in as a soldier. The underlying reasoning was that it was unreasonable—the Court of Appeal held it was unreasonable—to hold soldiers liable for decisions made under the pressures of a combat. To decide otherwise, said the court, would compromise their decision-making ability.

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Mr. Speaker, seven years later, in 2003, the court did a further exploration of this principle, and they did it in the case of *Multiple Claimants v Ministry of Defence*. It is a Queens Bench Division case, 2003, at page 1134. This involves a situation where the soldiers were not in a combat situation. As a matter of fact, they were doing peacekeeping duties, and also, they were carrying out police functions, and that is why I found it very apt to bring this case to the attention of this honourable House. [*Crosstalk*]

Mr. Roberts: “Who prepare that fuh yuh? Ramley?”

Miss M. Mc Donald: So, the Court of Appeal now in a second extension of combat immunity, the court concluded that combat immunity would apply to operations in which service personnel come under attack or the threat of attack.

Mr. Roberts: “That sound like Ramley!”

Miss M. Mc Donald: So, Mr. Speaker, what the court has decided is that not only in a combat situation would this principle of immunity apply, it also applies outside of a combat—[*Interruption*]

Dr. Rowley: Policing.

Miss M. Mc Donald:—it applies to policing duties, Mr. Speaker. So I am saying all that to say, what will be the lessons we could take out of this particular Court of Appeal decision? I am saying that if this retrograde Bill is passed, all these “soldier police” will have to do, in order to escape liability for damage to property—[*Interruption*]

Dr. Rowley: Persons.

Miss M. Mc Donald:—or injury to persons, or the use of excessive force, or breach of fundamental rights, is to claim that when they were assisting the police, Mr. Speaker, they came under attack or they believed that they were under the threat of attack. [*Desk thumping*] That is what the common law principle says!

Mr. Imbert: Teach them!

Miss M. Mc Donald: That is what the common law principle says, Mr. Speaker. They can then claim combat immunity if they injure someone or damage property and escape responsibility for their actions, so citizens who feel aggrieved will have no redress. None! Mr. Speaker, none! That is what is troubling me with this “half-pick duck” amendment brought to this honourable House. This is a reason I will say this Bill should be withdrawn. The Government appears to have

no understanding of what you are doing. None! [*Desk thumping*] This Bill is unworkable and it cannot be fixed. “It cyah be fix.” It cannot be fixed every time we come to Parliament, we get “ah piece of amendment”. It cannot

Under this Bill, while acquiring police powers, the soldiers will still remain members of the defence force and will thus enjoy immunity for their actions. They will have absolutely no liability for negligence, and will thus have powers but without responsibility. Is that what we want, Mr. Speaker?

Mr. Imbert: That is what they want.

Miss M. Mc Donald: Is that what we want? Is that what this country voted for in 2010?

Hon. Members: No!

Dr. Rowley: “Dats the crime plan, the new crime plan.”

Miss M. Mc Donald: Is this the new crime plan? Is this the new crime plan to take soldiers, turn them into police, and yet they are governed under the Defence Act, and you leave the police commissioner out in the cold, and the police pick up all the responsibility for their actions, and the soldier is immune? “I tell yuh they are looking for ah showdown” between the police and the army. That is what you all are doing.

Mr. Speaker, I turn my attention now to—I said I have five small points—the amendment to the Police Complaints Authority Act. Mr. Speaker, the Government proposes to amend section 4 of the Police Complaints Authority Act and that is the Interpretation section. What they want to do here is to include the “soldier police” from the defence force within the ambit of the PCA—the Police Complaints Authority Act.

Dr. Rowley: Just so! Just so!

Miss M. Mc Donald: Mr. Speaker, you see this piecemeal approach to this amendment, this will not—I just want to tell them, this Government, that this single amendment to the PCA Act will not bring, will not—I want them to get it in their heads—bring these “soldier police” under the remit of the Police Complaints Authority Act. It cannot because, Mr. Speaker, the PCA has civilian oversight of the police service—[*Interruption*]

Mr. Imbert: Based on regulations.

Miss M. Mc Donald:—based on their regulations. And when they are investigating, if there is a complaint, it must be a police officer under the Police Service Act, its rules and regulations.

Mr. Imbert: Explain it to them!

Miss M. Mc Donald: Now, these here are army personnel operating under the Defence Act and therefore cannot be brought under the PCA just like that. They cannot! They remain under the purview of the Defence Act so they are soldiers. Therefore, this little hodgepodge and “rachifée” amendment to the PCA—*[Interruption]*

Mr. Roberts: Spell “rachifée.”

Miss M. Mc Donald:—cannot work. Mr. Speaker, please.

Mr. Speaker: Please, please, Member for D’Abadie/O’Meara, please.

Dr. Rowley: Ignore him, just ignore him please. “He looking for ah replay back.” *[Laughter]*

Miss M. Mc Donald: Mr. Speaker, I wish to ask the Government, the Attorney General, the Minister of National Security, a question. Did any one of you speak to the director of the PCA? Did any one of you hold any kind of consultation with the director of the PCA to get her views as to what should be done? One single, solitary amendment and this Government believes that they could get these “soldier police” under the remit of the PCA. Never! It will never happen!

Mr. Imbert: Without regulations!

Miss M. Mc Donald: It will never happen! Sit there, sit still, it will never happen!

2.15 p.m.

Mr. Speaker, I turn my attention to the fifth legal issue that I think is worth talking about—*[Interruption]*

Mr. Roberts: “Yuh miss de fourth.”

Miss M. Mc Donald:—and that is, under whose command the members of the defence force will be, during an operation outside. When they go out to carry out their duties, whose control would the police, especially the soldiers—because we know the police are under the remit of the Commissioner of Police—who would be controlling the “soldier police” outside there?

Mr. Roberts: Ramesh.

Miss M. Mc Donald: Let us look at the chain of command and I bring your attention to section 7(1) and section 8(1) of the Defence Act. Section 7 establishes

a Defence Council. This Defence Council consists of a Minister who shall be the chairman, and that is the Minister in charge of defence, so that is the Minister of National Security; two other Members of Cabinet, the Chief of Defence Staff and the Permanent Secretary.

Section 8(1) says:

“Subject to subsection (2), the Council shall be responsible under the general authority of the Minister for the command, administration and discipline of and all other matters relating...”

The Minister would be in charge.

Now, further, section 191(1) and section 191(2) of the Defence Act, and this must be critical in understanding that the “soldier police” being created will be responsible to the Chief of Defence Staff and not to the police commissioner. Section 191(1) of the Defence Act appoints a chief of defence staff but section 191(2) is the dangerous one. It says:

“The Chief of Defence Staff...shall be vested with responsibility for the operational use of the Force and shall in the exercise of any power connected with such responsibility conform with any special or general directions of the Minister.”

The Chief of Defence Staff, yes according to the legislation, is in charge of the operations of the Force but he would be taking his instructions from the Minister of National Security.

On Wednesday they circulated, whilst debate was going on, yet another amendment. Let me read it. It says:

“When any unit of the defence force is charged under subsection (2) with the duty of assisting any member of the police service in the maintenance of law and order and is engaged in so doing, the members of the unit shall”—and this is important, this is the new proposal.

“(b) be under the command and control of the Chief of Defence Staff and in these circumstances the Chief of Defence Staff shall not be subject to the general or special directions of the Minister.”

Somebody told them: “Look, you need to remove the Minister out of this.”

Dr. Rowley: “So who he sent it to?”

Miss M. Mc Donald: And do you know what they did not realize? This is a dangerous move. They did not realize that this “ratchiffee”, this second “ratchiffee”

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amendment, what it does, it does not override section 8(2) and section 191(2) of the Act. It does not. The chief of defence remains in charge and takes instructions from the Minister of National Security, so this is useless. This amendment is useless. It is baseless.

Mr. Imbert: Skulduggery.

Miss M. Mc Donald: This is just a pure hoax. Why are we here arguing and wasting time? Withdraw it and go back, because every day, by the time I “sit down”, I might see another amendment. [*Desk thumping*]

Mr. Speaker, I want to ask a question here this afternoon: why is there, thank you, a reluctance to give control of these “soldier police” to the Commissioner of Police? Why? Why do we not want to give the control? Why? We are taking them from the army, 1,000, 2,000 of them, “yuh” giving them powers of the police, with protection, no liability, no responsibility for their actions and they are not under the control of the police commissioner? They still remain as soldiers under the Defence Act? Well if that is not true, Madam Prime Minister when you stand, if you are standing today, please clarify?

These “soldier police” must be bound by the rules and regulations of the police service, they must. But yet, they will continue to operate under the Defence Act, with the chief of defence in charge of them. However you take it, their boss, these “soldier police”, will always be the Chief of Defence Staff, no Commissioner of Police here. There is no room inside there for the Commissioner of Police. Why do you not want to give the Commissioner of Police his day in the sun? I am not interested in the person, you know, I am interested in the position.

Dr. Rowley: The office.

Miss M. Mc Donald: That is the office. That is the man's position under the Constitution. Why are we disrespecting him like that?

Mr. Speaker, you must agree with me that the Commissioner of Police, in law, is accountable to the Police Service Commission. You must agree. But who is the Chief of Defence Staff accountable to in law? He is accountable to the Defence Council and ultimately to the Minister of National Security, Mr. Speaker, so there is going to be a risk in investigation of certain sensitive matters, especially matters of a political nature—especially matters of a political nature. I just want us to imagine the police conducting an investigation of a political nature. The police reports to the police commissioner and assuming that the army is called in to assist in some kind of investigation, to assist the police, who is the army

personnel, these “soldier police”, who are they reporting to? They would be reporting to the Chief of Defence Staff. The Chief of Defence Staff, under sections 8(2) and 191(2) of the Defence Act reports to the Minister of National Security.

Mr. Speaker, what I am alluding to here is that the whole investigation can be compromised. The entire investigation can be compromised. I want to say, we go right back to post-independence, why the Police Service Commission set up. Lord Diplock was clear. It was set up so as to insulate the police from the long arms of the politicians, from the political interference of politicians, and, therefore, to have it mixed up like this, “yuh doh know whether de soldier is ah soldier, de police is ah soldier or de police is ah police.” It is neither fish nor fowl. This alone shows you this is a retrograde step and this Bill should be withdrawn forthwith.

Mr. Speaker, there is a sixth point that I want to make and that is: how are we—the Attorney General dealt with it in a very cavalier kind of manner—going to distinguish those army personnel who have been empowered under the police service and those who have not been so empowered? Mr. Speaker, the Attorney General said that we could differentiate them by the use of the armbands they would be wearing. That is not good enough. Administratively that is not good enough. We want to hear more on this.

Are they going to wear police uniforms? I want to send a note of caution to all the “soldier police” outside there, the 1,000 or 2,000 of them who are waiting to come in. Section 62 of the Police Service Act makes it an offence to wear a police uniform without the written authority of the Commissioner of Police. “All yuh doh come into this thing and geh set up. Doh come in tuh geh set up at all. Doh get set up.”

Mr. Speaker, how am I doing with time, please?

Dr. Rowley: You have 10 minutes.

Mr. Speaker: Eight minutes.

Sen. Ramlogan SC: Injury time.

Miss M. Mc Donald: Mr. Speaker, in the interest of the people of Trinidad and Tobago, I urge this Government, I plead with this Government, to withdraw this Bill forthwith. The Government has been ill-informed. This Government has been ill-advised and this Bill is badly crafted. All the amendments are responsive amendments—*[Interruption]*

Dr. Rowley: Knee-jerk.

Miss M. Mc Donald:—knee-jerk responses. No consultations have been held. All during the course of the week “dey meeting here, a 10 minutes here, an hour here and whatnot.” Take the Bill back, go back and do proper consultations—

Dr. Rowley: Try to understand it.

Miss M. Mc Donald:—try to understand what you are doing, try to understand the bacchanal and mayhem which will be caused if something like this should go through. Mr. Speaker, if they had really understood the impact of this amendment, there would be no need that every time we come to this Parliament there is a piecemeal amendment that we have to look at—piecemeal.

Let me recommend to this Government, that if you want more police outside there, let us do it the proper way, hire more. Do what you call a manpower audit of the police service—*[Interruption]*

Dr. Rowley: Train more.

Miss M. Mc Donald:—and train more police officers. Train them. We have needs. There are lots of young persons in this country who are qualified to enter the police service. Let us do it the proper way, under the Constitution.

Mr. Speaker, with those few words, I thank you. *[Desk thumping]*

The Prime Minister (Hon. Kamla Persad-Bissessar SC): Mr. Speaker, I thank you for the opportunity to join in this debate on the Miscellaneous Provisions (Defence and Police Complaints) Bill, 2013.

Mr. Speaker, I think my colleague, the Member for Port of Spain South, may be well aware of an anecdote which comes from a lawyer's primer and in that lawyer's primer it is said, if you do not have the facts you argue the law, if you do not have the law, you argue the facts, and if you do not have the facts or the law, you argue the Constitution. And so the hon. Member and others on that side did spend a lot of time dealing with the Constitution. I want to say today, I have the facts, I have the law and I also have the Constitution. *[Desk thumping]*

And in the time that I have for this debate, I really would like to deal with some of the concerns that were raised inside and outside of the Parliament, because there has been a lot of misinformation, indeed, at times, distortion of the facts and, at times, distortion of the law and, indeed, what we have been accused of is subverting the Constitution but there has also been subversion of the Constitution in criticisms against the Bill.

Let us look at the facts. What are the facts? The facts are that we are in a situation where we have a budget of \$1 billion per year; \$1 billion per year, expended on the defence force. That is fact one.

Fact two is that we have a police service, where we expend moneys for the remit of the police officers. Also, we have a situation in our country where citizens live in fear. Whilst the statistics will show us we brought down serious crimes, there are still serious crimes and we need to keep improving on that. At the same time, whilst they would have you believe that crime has gone up under this Government that is not true, as the numbers themselves will show.

2.30 p.m.

Whilst they say that we disbanded SAUTT and, therefore, crimes have gone up, let us look at the figures. These are facts, Mr. Speaker. These are the numbers. SAUTT was launched in 2003. The number of murders was 229. What happened after that? In 2004, it rose to 260; 2005, 386; 2007, 395. So after the launching of SAUTT, you gutted the police service to take out officers to go into SAUTT; you gutted the defence force or others and put them into the SAUTT and what happened?

From 229 when the SAUTT was launched in 2003, increased—260, 2004; 2005, 386; 2006, 368; 2007, 395; 2008, 550; 2009, 509; 2010—thanks to the Partnership coming into office—485. [*Desk thumping*] So we did bring the murders down, Mr. Speaker. In 2011, 354—you will say yes, we had the SOE which helped at that time—in 2012, when we scrapped the SAUTT, murders at 379; nothing as the 550 and 500 and so on that we saw under the previous administration. That is only with respect to murders and the numbers for serious crime will show you the same thing, that we have been able to bring those down; but that is not good enough.

We celebrated International Women's Day fairly recently. Last night we hosted a function for women at the Diplomatic Centre and, Mr. Speaker, whilst it is we all feel the pain of the loss of a son or daughter, I think as mothers and as women we feel it more because you would have had that child in your belly for nine months. That is why when you see a mother on the TV screens or you see her in person screaming because she has to bury her child, which is the reverse of the natural order that your children bury you, we cannot continue to sit and use the same strategies. What is your answer?

The hon. Leader of the Opposition in his contribution spoke about hiring contract—hire people on contract, hire police officers on contract. It is the same

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thing they did. Under the SAUTT, they hired retired policemen from—where was it—from the UK, from the United Kingdom—

Dr. Moonilal: Retirees.

Hon. K. Persad-Bissessar SC:—and they were in fact retirees. They contracted people and brought them in. Did it work? I just read you the numbers.

Hon. Members: No.

Hon. Members: No, no!

Hon. K. Persad-Bissessar SC: I just read the numbers. You formed the SAUTT and you brought these people in on contract. Did it work? And that is what the hon. Leader of the Opposition is saying. The Commissioner of Police now has the power that he can contract people. So contract people, contract people. And so what I said, the fact one, we have 5,000 soldiers whom we are already paying, who are there and willing and able to serve.

Mr. Speaker, let me disabuse the minds of those who continue to spit venom when they say the word, “soldier”. It is a venomous sound, “soldier, soldier”. Those very soldiers have defended us from the beginning when they were there. [*Desk thumping*] They seek to vilify, with venom in the voices when, at the same time, these are the people for 10 years, for the last decade, who have been used by administration after administration in joint patrols with the police. So they are already there.

In the long term, we recruit more officers, yes, then we will have to find more budgets. We have a budget already for the defence force, so I say, I think both the police and the army personnel continue to serve with distinction. We have confidence and faith in the police and in the army and it is not an issue as, sotto voce, I am hearing, “looking for friends”. They are institutions of the State [*Desk thumping*] and, therefore, they must be utilized in defence of the State and the citizens of the State. And so I come to another point, Mr. Speaker.

There is a view that this is a knee-jerk reaction or this is a novel idea, something totally—that is not true. Joint patrols, as I have said, have been with us for a decade. It is nothing radical and it is not an extreme measure. The defence force/police have been partnering, as I said, for over 10 years and, indeed, even more than that as I will demonstrate in a moment.

The coast guard, as the hon. Member for Port of Spain South pointed out, they already have some powers of arrest, seizure and detention on the high seas; but,

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you know, there is an ambiguity in the law when you look at it. As to, okay, the coast guard now want to interdict on the seas in the territorial waters of our country and they are out there and they are chasing a vessel that they believe is engaged in unlawful action and what happens if the vessel comes to the shore and the guys jump out and run on to the land? What happens to the coastguardsmen? Do they have the legal authority to jump off their ship or their vessel and run on the land? No. That is ambiguous in the law and so all these bad guys have to do, the criminals, is just take the ship on to the shore; jump off the ship. That is what they can do.

And so we have spoken with coastguardsmen and this is what they are saying; that if you look at—[*Interruption*] and that is the point. There will be no police on the shore because they may not be at that point in place. [*Laughter*] [*Interruption*]

Mr. Speaker: Member for Port of Spain North/St. Ann's, Member for Diego Martin North/East.

Hon. K. Persad-Bissessar SC: That is one scenario. So the coastguardsmen already have powers of—sorry, Mr. Speaker—powers of arrest, seizure and detention, but then, with this measure they would be given additional powers. Their jurisdiction, their remit, their area of jurisdiction would be enlarged to come onto land. So what we are seeking to do is to provide legal cover and protection to members of the defence force to allow members of the defence force to assist police officers in the execution of their duties in the fight against crime.

We know, as I have said repeatedly and others, that this has been happening for over a decade and even more. So it is nothing new that we are seeking to introduce. It is happening as we speak and, indeed, I am advised that for 12 consecutive days, since the joint patrols have been put in, starting from March 04 until today, there has not been a single murder, Madam, in Laventille. [*Desk thumping*] Those are the reports that we have from the police.

Dr. Moonilal: So your constituents—

Hon. K. Persad-Bissessar SC: So your constituents that you mention from Laventille, with the joint patrol there, for the past 12 days I am advised, not a single murder in Laventille.

Dr. Moonilal: They want murder.

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Hon. K. Persad-Bissessar SC: So I am asking you, do you want to deny the members in your constituency of the protection that they could have in your area or in any area in all of our land? So I am saying it is nothing new.

I refer to an article from the *Trinidad Guardian* newspaper, published August 09, 2005 with the headline, “Regiment chief: Joint patrols to stay”. So this is 2005 from the then Regiment Chief and at that time it was Brig. Dillon, Commanding Officer of the Regiment, Col. Edmund Dillon, said:

“Soldiers have been participating in what was originally supposed to be temporary patrols with the police since they were first reintroduced in 1994.”

Continuing the quotation:

“If you check, in fact, in our history, you will see that we have been involved in working with the police from since the 70s all the way up.”

So from 1970, police and army have been working together and what reports have we had of all the horror stories that some would have us believe would happen if the police and the army continue to work together? What are the horrors we have heard of, Mr. Speaker? Not one specific example of the fear.

It is like looking for a ghost behind every post to bring sheer doom, gloom from the naysayers who continue to seem to care about human rights, but they do not seem to care about the human rights of innocent, law-abiding citizens. [*Desk thumping*] Should that not be the priority? We must have human rights for all and, at the moment, innocent, law-abiding citizens are being deprived; not just of human rights, but of the right to live; the fundamental right to life, to liberty, to property, enshrined in our Constitution. And what do we do? Do the same things? Go back and continue to do it all the same? There can be no change if we do not change the way in which we do things. [*Desk thumping*]

So, I continue with the quotation from the *Guardian* of August 2005.

“He said the national security environment had changed drastically since the 70s, and the Regiment and the Coast Guard could no longer solely concentrate on defending the nation from external enemies.”

That is the quotation, Mr. Speaker, and this is what, in fact, we are doing here. This is what we attempting to do. We are introducing, through this Bill, a legislative framework to govern a partnership between the defence force and the police service that has been in existence, if we are to believe Brig. Dillon, since the 1970s, and then more so from 1994. We are providing the legislative framework.

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Let me deal with an issue here about legislative framework. You would remember when we came into office here and we came into this Parliament, we brought the Intercept Bill and we talked about illegal tapping of phones. That was happening before. It was this Government who came to bring legislation [*Desk thumping*] to provide the legislative framework, and I understand the hon. Member on the other side talked about her phone—the phone of the Member for Laventille East/Morvant—being tapped and others being tapped and on this side being tapped. So I have asked the hon. Minister of National Security to get a copy of the *Hansard* contribution of the hon. Member and give it to the authorities who are responsible for making sure that if there is any such intercept taking place, that it is legal.

There are only three officers—we passed a law here in this Parliament. It is the Commissioner of Police; it is the head of the army; and it is the head of the SSA, the legal SSA, under statute—

Sen. Ramlogan SC: Not the illegal SIA.

Hon. K. Persad-Bissessar SC:—not the illegal SIA. These are the three heads who can give authorization for tapping of phones. Any other tapping would be illegal. So I have asked the Minister to provide it to the three heads so they can investigate the allegation being made by the hon. Member for Laventille East/Morvant, from the *Hansard* contribution, as the report to the three protective services heads.

Mr. Speaker, the argument that this fundamentally changes the role of the defence force: the role and the function of the defence force have evolved over time, particularly in our Commonwealth region, here in the Caribbean as well and small nations like ours can ill afford to have one group on permanent standby to be utilized in times of war or in times of a state of emergency. We can ill afford so to do, Mr. Speaker.

Most countries in the Caribbean have enlisted the support and services of the army to assist the police service in the fight against crime and so, in my respectful view, it is not inconsistent with the overriding traditional role of the defence force to protect and serve. Many have argued that they have always had a role to play in the fight against crime because their first duty is to defend the State and maintain law and order.

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So the Member for Diego West said, and I quote:

“And this Government comes to Parliament attempting to deal with that, by converting the army into police officers so now we would have soldier/police.”

In other words, we are tampering with the traditional role of the defence force.

I made the point before to cease to change is to cease to exist. Half a century has elapsed since we attained our independence. It would be foolish if we did not review the role and functions of critical institutions in light of our present realities. Indeed, as pointed out by the hon. Attorney General when he made his contribution here, the former regime, recognizing this fact, commissioned the well-known Justice Ulric Cross in 2006 to do what? To review the Defence Act. So they were well aware that we need to review institutions and they gave a specific remit to Justice Cross to review the Defence Act.

In his contribution, the hon. Attorney General referred to a newspaper front page story in the *Newsday* of March 12, 2008 entitled, “Soldiers can arrest”. The article concerned recommendations made by The Honourable Mr. Justice Cross. Mr. Speaker, since then I have been able to locate a copy of the report of Justice Cross. The existence and validity of this report was questioned when the hon. Attorney General raised it in his contribution. They questioned whether there was indeed such a report. There is, Mr. Speaker. I have located a copy of this report. There were two. The first report, 1996, and the second report of 2007. These are the reports of The Honourable Justice Cross.

On page 2, paragraph 2.0, “Policy Objectives”, Justice Cross recommended, and I quote:

“Developed country status requires a well regulated Defence Sector. The turn of the millennium has brought with it new challenges and responsibilities of a nature which the 1962 legislators could never have foreseen. Some of these challenges were alluded to by the Prime Minister in his address to CARICOM Heads in Port of Spain in 2004. These challenges are articulated in the form of clear objectives for which the Defence Force is responsible.

They include a greater need for the Defence Force to provide assistance to national civil authority in the areas of law enforcement”—in the areas, Mr. Speaker, I repeat, of law enforcement—“and keeping the peace and natural disaster relief...”

2.45 p.m.

Continuing from the report:

“It has been accepted that to fulfill these commitments both nationally and regionally the Trinidad and Tobago Defence Force must undergo a radical transformation that in turn must be supported by adequate legislation.”

On page 6, Mr. Speaker, in conclusion, the Justice Cross Committee described the reason for the policy document it crafted as follows, and I quote:

“The fundamental aim of this policy document is to articulate government’s policy as it relates to the changes in the Defence Sector and national security environment which requires a corresponding change in the structure, administration and operations of the Defence Force. The policy will inform the amendments required in the Defence Act by addressing deficiencies of the existing legislation.”

Further, Mr. Speaker, the committee appointed by those on the other side specifically recommended the Defence Act be amended to ensure military power could be applied to aid civil power in order to:

- “(a) Secure and eliminate threats to national security;
- (b) Manage and defuse national issues, combat serious crimes and maintain peace and public order...”

Their own report, Mr. Speaker!

Dr. Moonilal: We are implementing.

Hon. K. Persad-Bissessar SC: The Justice Cross Report, this is what we are seeking to implement to put the legislative framework, yes, to give to the defence force powers they did not have before and, in that way, to deal with national security to assist, and to assist in keeping the peace, public order for our citizens. That is not all. So, first of all, this is not something that jumped out of the sky; the Justice Cross Report 1996 and 2007—the two reports from Justice Cross.

And then we turn to the Caribbean, right here in our own region, and we would see that several of the Caribbean Commonwealth countries have legislation that is in *pari materia* with what we are proposing to do here. Indeed, some of them go further than we have attempted to do, as I will demonstrate from the legislation. Let us first understand that their Defence Acts and their constitutions are similar to ours in the Caribbean—in the rest of the Caribbean—as we are in Trinidad and Tobago. That is the first point.

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I know the hon. Member said that the Jamaican provision did not give the police powers and gave only the privileges and immunities, but let us look at them, Mr. Speaker, first, the Jamaican perspective. Look at what happens here, in Jamaica!

The hon. Member, if my memory serves me right, was saying that the defence force personnel were not set up to assist the police, but that is not true, because the Member only quoted section 9(3) of the Jamaican Act, which I have a copy here, and I have extracted it for my document.

Section 9(2) of the Defence Act—and let me make it very clear that section 9(2) and 9(3), these were provisions that came by way of amendment of the existing Defence Act. So theirs was very similar to ours, where there was no such power to help the police in maintaining law and order, but they came thereafter to amend their Defence Act.

Section 9(2) says:

“...the Prime Minister may give to the Chief of Staff such directions with respect to the operational use of the Jamaica Defence Force in Jamaica for the purpose of”—doing what?—“maintaining and securing public safety and public order...”

Mr. Imbert: Exactly!

Hon. K. Persad-Bissessar SC: They went further.

Mr. Imbert: Completely different!

Hon. K. Persad-Bissessar SC: They went further, giving the powers to the police not to assist the police—

Mr. Imbert: Not law!

Hon. K. Persad-Bissessar SC:—but, Mr. Speaker—[*Interruption*]

Mr. Speaker: Member for Diego Martin North/East, could you just maintain silence, please.

Hon. K. Persad-Bissessar SC:—“for the purpose of maintaining and securing public safety and public order...” And it goes further:

“...notwithstanding that the directions of the Cabinet have not been obtained, and the Chief of Staff shall comply with those directions or cause them to be complied with.”

So, here is the power given. The defence force did not have that power before. Just like with ours, they had the power for hostile external threats and they had the power under a state of emergency. They inserted by amendment that section, Mr. Speaker, and there they were given 9(3), which is the one the Member spoke of:

“...is acting pursuant to directions referred to in the proviso to subsection (2), such member shall, while so acting, enjoy all such immunities, privileges and protection as are enjoyed by a member of the Jamaica Constabulary Force.”

So, Mr. Speaker, the power was given, first, and who triggers the action? Not the police, not the commander or chief of staff of the army. In the Jamaican case, it is triggered by the Prime Minister, even without the input of any Cabinet. We have not taken that route at all.

Indeed, in the amendment, we have indicated that the Chief of Defence Staff, when dealing operationally with the soldiers assisting the police, that he will do so without any specific or general direction from the Minister, whoever the Minister of National Security may be.

So that independence that we are hearing so much about is maintained. In the same way that the Commissioner of Police is in charge of his troops, of his police officers, without the direction and control of the politician, in the same way, we have proposed here that the Chief of Defence Staff, he will be the one in charge of his troops in the defence force. So it is a Jamaican case.

Mr. Imbert: It is not the same.

Hon. K. Persad-Bissessar SC: I am hearing babbling, “It is not the same. It is not the same.” Of course, what is maintaining and securing public safety and public order? What is that? Because the separate powers were given in the parent Act, this was the amendment. In the parent Act, they had the same powers, duties, roles and functions as the soldiers in our defence force. [*Crosstalk*]

Mr. Speaker, you know, the last day we were here—[*Crosstalk*]—and I really would not like to say what the hon. Member for Laventille East/Morvant had to tell the Member for Diego Martin North/East, while she was speaking.

Hon. Member: Yes.

Hon. K. Persad-Bissessar SC: I really would not want to have to repeat her words to him, so I would ask you, please, for your protection. The babbling continues incessantly.

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So, Jamaica goes further, police lockdown and curfews in Jamaica: they go further where they allow their commissioner of police to establish a cordon or a lockdown in any locality. Now, we can only do that under a state of emergency, and also we have not gone as far as Jamaica.

Antigua and Barbuda as well, Mr. Speaker, section 6 of the Defence Act 2006: again, in 2006, Antigua and Barbuda amended their Defence Act to give powers to the police in their territory.

Section 6 says—it expressly provides as one of the functions of the Defence Force of Antigua and Barbuda as not only defence but also aid to the civil power, the civilian authorities as well as securing and maintaining public order and public safety. Law and order: what are we talking about? It is the same; it is the same, Mr. Speaker. This section was amended in 2007 to confer police powers to members of the defence force as provided by section 8 of the Defence (Amdt.) Act, 2007. So, we have it here it again, Mr. Speaker, Antigua and Barbuda.

We go to Guyana, and in the Guyanese legislation as well, section 5 of the Defence Act, they have also now given the power to their defence force.

“The Force shall be charged with the defence of and maintenance of order in Guyana...”

in addition to the powers they had before to outside threats coming in.

Section 4 of the Bahamas Defence Act—[*Interruption*—the Minister is working very hard, I know, so sometimes it is difficult—expressly provides for not only defence, but also:

“...protection of the territorial integrity...the patrol of the waters...maintenance of”—law and—“order...in conjunction with the law enforcement agencies...” [*Desk thumping*]

Same, same thing, Mr. Speaker! It is the same—Antigua and Barbuda, Bahamas, Guyana and Jamaica.

Mr. Speaker, so what is wrong with Trinidad and Tobago? We are even smaller than Jamaica.

Dr. Moonilal: We have the PNM.

Hon. K. Persad-Bissessar SC: Mr. Speaker, I think the only difference is in Jamaica, Guyana, Barbados and Antigua and Barbuda, they do not have the PNM. [*Desk thumping*] So we speak of in the Caribbean, right in our own region. I have not gone into other areas, because you can see in the Irish Act, in Ireland they

introduced similar provisions. In India, long ago, they introduced it. I would not go outside the region. Right here in our region, where our constitutional framework, our jurisprudence, is basically the same, they serve as good examples of what we can and should do here in our own land.

So let us talk about other officers with police powers. The hon. Member spoke of that as well. [*Interruption*] Can you give me an idea of time?

Dr. Moonilal: Six minutes of original time left.

Hon. K. Persad-Bissessar SC: Are you serious, one hour?

Dr. Moonilal: Six minutes.

Hon. K. Persad-Bissessar SC: Thank you, thank you. The Member mentioned the Customs Act, let me read—it is not only under the Customs Act officers are given police powers. Under the Motor Vehicles and Road Traffic Act, officers are given police powers. Under the Immigration Act, officers are given the police powers. So we already have here where persons who are not police are given police powers as we are seeking to give to the defence force: the Customs Act, Motor Vehicles and Road Traffic Act, Immigration Act, the Supplemental Police Act, which the Member referred to, the Special Reserve Police Act, the Municipal Corporations Act—so look at it—one, two, three, four, five, six; in the Defence Act, a Petty Officer under the Defence Act. Under the Forests Act [*Crosstalk*] a forest ranger is given these police powers. So we have reached nine pieces of legislation.

Dr. Moonilal: “Go and look for lappe and tattoo.”

Sen. Ramlogan SC: “And it ha all kinda forest ranger”.

Hon. Member: “Wah yuh feel, is ah rum shop?”

Mr. Speaker: Member, please.

Hon. K. Persad-Bissessar SC: There are many other public officers then, customs officers, transport officers, members of the coast guard, the forest ranger and so on, who have powers given to them that are powers from the police.

Police powers, they say, we can only use it in time of war—sorry what they are calling “soldier police”. I think the military talk about military police—that they can only use these powers under a state of emergency or in times of war.

Mr. Speaker, you will recall that the Member of Parliament for Diego Martin North/East criticized the Attorney General for making the bold assertion that the

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legislation referred to in the other countries operates and is confined to times when a state of emergency has been declared. Indeed, he accused the AG of misleading the House on this matter. Mr. Speaker, I have every one of those Bills here—Acts from the other territories—and that is not true. I have just read the Jamaican provision. Time will not permit me to read the others from Antigua and the other areas where, outside of a state of emergency, by amending their Defence Act, they gave the powers to their defence force. [*Interruption*]

Mr. Speaker: Member for Diego Martin North/East, please, I am appealing to you to allow the Member for Siparia, the Prime Minister, to speak in silence. You have already spoken. You can take notes if you wish. Continue, hon. Prime Minister. [*Desk thumping*]

Hon. K. Persad-Bissessar SC: I thank you very much, Mr. Speaker. [*Desk thumping*] You know, Mr. Speaker, “Dey say, that—they cannot take it, yuh see.” The truth sometimes offends some people.

Hon. Member: That is right.

Hon. Member: The truth offends.

Hon. K. Persad-Bissessar SC: The truth offends. And, so, whilst they had their right to speak and have spoken, then they should not listen to anyone else, but we have the remedy for that, do we not, Mr. Speaker? If you do not want to listen, you just walk outside. Everybody has the right to leave. And, so, I am talking about these powers; they are saying only under a state of emergency. The provision is clear in the Antiguan law that that is not the case. The extra powers were given to be used outside of a state of emergency and we go on. That was the case in Jamaica, Bahamas, Guyana and so on.

Mr. Speaker, under the previous Government, the defence force was used by the previous Government, totally without the checks and balances that they are speaking of; totally without a legislative framework. You will remember the lockdown in Richplain. I am advised from the reports that only soldiers went in to lockdown Richplain. They were not accompanied by any police officers. It was not even a joint patrol.

Hon. Member: That is true.

Dr. Moonilal: And the Prime Minister defended that.

Hon. K. Persad-Bissessar SC: Of course—went into Richplain.

Dr. Moonilal: Manning defended that!

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Hon. K. Persad-Bissessar SC: You remember operation Bhagdad, operation Anaconda—

Dr. Moonilal: Cobra!

Hon. K. Persad-Bissessar SC:—those where they had these joint patrols, but Richplain was a glaring example, again, of the use of illegal force by the PNM in the same way that the SAUTT remained illegal in spite of the repeated assertions by the then Government that they would bring legislation to legalize the SAUTT.

And, so, SAUTT was an affront to the rule of law; a total affront to the rule of law. I have shown the statistics when instead of crime going down, the murders went up. I have shown those. Look I can even speak about this again.

Dr. Moonilal: People holding that up as if that was a success.

3.00 p.m.

Hon. K. Persad-Bissessar SC: Let us deal with the serious crimes. In 2003, 16,819 by 2005, 17,000; by 2009 over 22,000—[*Interruption*]

Hon. Member: Oooooooo!

Dr. Moonilal: SAUTT at work.

Sen. Ramlogan SC: That is SAUTT—

Hon. K. Persad-Bissessar SC:—and it kept going up—I am not reading the others because of the time—continued to rise, the serious crimes, as did the murders.

Mr. Warner: You said all those here?

Hon. K. Persad-Bissessar SC: Yes, I said those already, thank you. By 2010 it had gone down to 20,126.

Dr. Moonilal: Thank God we come here.

Mr. Roberts: Thanks for the People's Partnership.

Hon. K. Persad-Bissessar SC: In 2011: 15,876.

Hon. Member: Wow! [*Desk thumping*]

Hon. K. Persad-Bissessar SC: And in 2012: 17,784. So we have reduced the serious crimes. The SOE was the case where we had a greater reduction in the serious crimes and the murders, and so, talking about legality and illegality, the

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Member for Laventille East/Morvant said about SAUTT, and I quote from the *Hansard*:

“I want to set the record straight for the umpteenth time that SAUTT was never an illegal unit.”

Hon. Member: Wow!

Hon. K. Persad-Bissessar SC: Hon. Speaker, in another place or time I would say that the hon. Member knew or ought to have known [*Crosstalk*] because the hon. Member served in the Ministry of National Security [*Crosstalk*] in the former administration, so she knew or ought to have known [*Crosstalk*] that it was illegal. Because the then Minister, Mr. Martin Joseph, on September 26, 2008, he stated right here in this House:

“We have promised SAUTT legislation and that legislation is going to be coming before the end of 2009.”

Hon. Member: “Huh!”

Hon. K. Persad-Bissessar SC: Well, you know, 2009 came and went.

Dr. Moonilal: “He gone before dat come.”

Hon. K. Persad-Bissessar SC: From 2004 down to 2009, repeat promises to bring—why would you bring legislation for something that was already legal? It is an acronym—an oxymoron, sorry. It is an oxymoron to say, “I am going to legalize SAUTT”, if it was already legal. Further than that, Senior Counsel, Dana Seetahal, in an article in 2005, talking about the rule of law and talking about SAUTT, and I quote:

“The power to create the SAUTT does not exist in any of the acts with govern the bodies from whom the members of the unit are drawn.”

Continuing to quote from her article:

“Since the SAUTT is not accountable to any law enforcement organisation, as it fails to report to either the heads of the Police Service or the Defence Force, it may in some ways be considered a law unto itself.”

And now, Port of Spain South, hon. Member, is talking to us about who will account where, who is not accounting for the police officer. You had an entire unit for eight years, accounting not to the Commissioner of Police and not to the Chief of Defence—totally illegal within the law. [*Desk thumping*] [*Crosstalk*] Totally! Totally! They reported to no one. They reported to the head of the SAUTT.

Hon. Member: “Oh my God!”

Hon. K. Persad-Bissessar SC: The then head of the SAUTT—that was the superior officer. They did not report to him, he was gutted out from the police force and placed into the SAUTT, and whilst he was operating under the SAUTT he was not reporting to the police, they reported to the head.

Sen. Ramlogan SC: “Dats right.”

Hon. K. Persad-Bissessar SC: Why would you report to a subhead when you have a head? [*Crosstalk*] So, to say that it was legal flies in the face of the words of the then hon. Minister of National Security, Mr. Martin Joseph; flies in the face of the legal opinions given then, and is fortified—that view is fortified—by the fact that when the SAUTT officers, some SAUTT officers, either attempted to arrest or did arrest, or to provide matters to the court, it was not admissible in the court and the whole case had to be thrown out. I remember that. I do not have all the details but I remember that incident had occurred.

So I am fortifying the view that it was illegal, and the only people who believed that it was a legal unit are those sitting on the other side.

Dr. Moonilal: They are themselves illegal.

Hon. K. Persad-Bissessar SC: They are the only people. [*Desk thumping*] The entire country knows it was an illegal unit; a totally illegal unit operating against and in breach of the rule of law. So the idea of the dismantling of the SAUTT has led to an increase in crime, I have dealt with that issue as I have given you the statistics. [*Interruption*]

Mr. Speaker: Please, please, Member for Port of Spain South.

Hon. K. Persad-Bissessar SC: We are being also told that soldiers having police powers is a dangerous move. The Member of Parliament, again, for Diego Martin North/East quote, the army is:

“...trained to kill.”

They on the other side have been saying over and over again that these persons, they are killing machines. Then why did you, under your administration, put the Trinidad and Tobago Defence Force to oversee the Specialized Youth Services Programme (SYSP), which is the coordinator of the Civilian Conservation Corps? Why did you put them in the Military-Led Academic Training Programme, (MiLAT)? Why did you put them in MYPART? And why did you put them in the National Youth Service?

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These four programmes have the objectives to train and develop our nation's unemployed citizens, aged 18 to 25 years, for employment, to curb the incidence of violence committed by citizens, to raise the self-esteem of participants, to foster socially desirable well-balanced behaviours among participants. Do these objectives sound as though these people are killing machines? [*Crosstalk*]

Sen. Ramlogan SC: Yes. "Why they branding the soldiers and them?" [*Crosstalk*]

Hon. Member: This is not a rum shop.

Hon. K. Persad-Bissessar SC: To foster in them [*Crosstalk*] a sense of national pride, improve civic-mindedness, to provide temporary employment, to develop an understanding and sensitivity to the natural environment, to collaborate with the Forestry Division to assist in reforestation, environmental conservation efforts.

Mr. Speaker, are these the persons we are saying, that to utilize them to assist the police will be dangerous, when we have them working with our young people on the ground to build national pride, to build skills, to provide employment? Are these soldiers so deadly that they should be shunned and shut down at Chaguaramas, down at their base in Chaguaramas, because they are like killing machines? These are people who have already been engaged, not only by us now, but by the former administration.

Hon. Member: "Buh dey hug-up Ramesh."

Hon. K. Persad-Bissessar SC: So the danger is to have them operating outside of a legislative framework and that is what the Bill is trying to do now, to provide that legislative framework for them to carry out their duties, to assist the police to help us fight crime, to bring down crime. [*Desk thumping*]

So if we have said, and we all acknowledge that they have been working together, why do we need to bring this legislation? Why? Mr. Speaker, the legal status of the defence force personnel, when engaged to support the police in these joint patrols, their status is ambiguous, it remains in doubt. There is a sharp divergence of legal opinion on whether the Defence Act, as presently drafted, allows the defence force personnel to provide support to the State outside of a State of Emergency. Section 5(1) of the Act establishes the defence force, and 5(2) says:

"Every unit shall be charged with the defence of Trinidad and Tobago and with such other duties as may from time to time be defined by the Council."

The issue is whether these words lawfully allow for the use of soldiers alongside police officers in the fight against crime, which is what has been happening for decades. It is clear they do have a duty to defend the State, but they can be given additional duties by the Council. However, the Council cannot confer duties to soldiers where those duties are beyond the powers of the Council as given under the Defence Act. In other words, the unit is a statutory one. The defence force is a statutory unit. In law you say, it is a creature of statute, and therefore you are bound by the four corners of the statute. You cannot go outside of the Act, outside of the statute, to give them the power that was not contemplated within the four corners of the Act itself. That is why we need now to place it clearly; remove any ambiguity that they have this power now to assist police officers in the fight against crime throughout the country.

Mr. Speaker, we turn to a further point: we need to give this necessary legal protection. The Bill now is specifically providing for the defence force to be relied upon to provide assistance to the police service in the fight against crime. That will now be clearly put into the law, remove all doubt and all debate, and this will remove the ambiguity that could be interpreted in the law. It would also clothe soldiers with the necessary legal authority to enable them to meaningfully assist the police, when called upon to do so, by vesting in them powers, duties, privileges and immunities, similar to those enjoyed by police officers.

Mr. Speaker, if I may, with respect, I think the argument of the hon. Member for Port of Spain South, about we are giving the powers to the soldiers but we are not giving them the liability, Mr. Speaker, with the greatest of respect, that is not so, because whatever power you give—the police powers to the soldiers—the power is constrained as to what obtains for police officers. So you cannot give them police powers that are greater or larger, or more enhanced than what the police has. They would be constrained within the framework of what the police can and cannot do. *[Interruption]* I would come to that in a moment, Madam.

Mr. Speaker, so first of all, you are not giving them something that the police do not have. You are not going above and beyond. It is constrained within the law, and the police are constrained because they would be liable if they do certain things and, therefore, the power can only be exercised in that way. If you step outside the remit of that exercise, two things will happen. First of all, they are subject to military law, but above and beyond that and contrary to the Member for Diego Martin North/East, who shared the erroneous view that they are outside of the laws of Trinidad and Tobago, a police officer is subject to the police regulations and the law within there, but also subject to the Constitution, the civil law and the criminal law of Trinidad and Tobago.

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In the same way now, the soldiers also, in addition to [*Inaudible*] as we speak, without even doing this, giving them these powers, they are subject to the criminal law of the land; they are subject to the constitutional law of the land; they are subject to the civil law of the land, right now as we speak. [*Desk thumping*] So should they act in a criminal manner, they will be charged by the DPP and before the courts. Should they abuse property and privileges and so on, they will be charged in the civil court, they can be sued.

Those are the remedies we have and, in addition, we have put in the ordinary citizen's right to make a complaint to the Police Complaints Authority. So we have three checks there: ordinary law of the land, civil criminal Constitution, in addition under the PCA, and we have gone further. We are now saying that these officers in accompanying the police will have the powers, the rights and the immunities.

Now, we had said the Jamaican provision is a little different because it does not mention the words "powers of arrest", but then what are you protecting them for? Why did you give them the privileges, the immunities? What were you immunizing them from or for? You can only need those privileges and so on if you are exercising the powers. So that we have not left it in ambiguity, we made it very clear we are giving them these powers. What we have also done, Mr. Speaker, we are proposing that when they exercise that power we want to make it very clear the soldiers are different from the police, because we are not giving them every single thing that a police officer can do.

We are proposing that when we give them the power to stop, first of all—now think of a scenario; a police officer is with a soldier on a patrol or go to raid a house, the police officer goes through the front door or a side door, the soldier goes through the back door or is waiting outside. The police officer knocks on your door and comes in, whatever, the criminal inside the house runs out the house; what can the soldier do? At present, you think he could stop him?

Dr. Moonilal: No.

Hon. K. Persad-Bissessar SC: Do you think he can search him? Do you think he can seize anything? He may have drugs in his pocket, a gun. Can he detain him? Hold him? Just stop him and hold him? Right now they do not have any of these powers. Under the law they have no such police powers, and those are the powers that we intend to give through this Bill. Working alongside the police, working to assist the police, they are given these powers to stop, to search, to seize, to detain, but we stop them there.

Mr. Speaker: Hon. Members, the speaking time of the hon. Prime Minister and the Member for Siparia has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Hon. E. McLeod*]

Question put and agreed to.

Hon. K. Persad-Bissessar SC: [*Desk thumping*] Thank you very much, and I thank hon. Members. Mr. Speaker, I am saying there is a cut-off point of the police powers being given to the soldiers. It stops at the point of detention, when the person is detained. It stops at that point. You may call it arrest because every detention in a sense is an arrest—it stops at that point. So that is all that the soldier—what they are calling “soldier police”—but the soldier with police power, that is his cut-off.

We have proposed that at that point the soldier assisting the police will then hand over any such person or any such seized item to the senior police officer he is assisting, and in the event that that is not possible, he will go to the nearest police station as soon as possible. That is the power now given to SRPs, given to estate police, given to all these other branches of persons. They do not have the power to interrogate. We are not giving that to the soldiers, the police have it. They do not have the power to—

3.15 p.m.

Sen. Ramlogan SC: Lay charges.

Hon. K. Persad-Bissessar SC:—lay charges. We are not giving that to the soldiers, that remains the remit of the police, and they do not have the power to go to court to be a prosecutor. That remains solely within the domain and the jurisdiction of police officers.

So, what this is to do is therefore to provide a bubble of protection, an assistant to the police service. At that point you capture the person or you seize an item, hand it over to the senior police officer or take it to the nearest police station. Mr. Speaker, that is where it stops.

You know, and we talk about training. There are estate police, private security firms, with thousands of employees. To whom do they report? To whom do they report? What training do they have, Mr. Speaker? What liabilities do they have? But they operate with police powers. They operate with some of the police powers. So the arguments there—we are not proposing that that happen.

We are saying we are putting the checks and balances for the soldiers who assist the police. Private security guards do not have—many of them—or are not required to take any examine, and we are proposing that these soldiers will be given training, at the end of which they will take an exam. All of that will be done by the Chief of Defence Staff, the brigadier in charge of the soldiers, the CDS, the major general in charge of the army.

The further point that has to be made has to do with the political control. We have removed that political control by placing command in the hands of the CDS, so not from the Minister or the defence council.

The code of conduct, Mr. Speaker, a lot of talk, and we want to thank the Law Association and the Criminal Bar Association. We met with them yesterday: Leader of Government Business, the Attorney General, Minister of Legal Affairs, Minister Christlyn Moore, Minister of Justice; myself. We met with them yesterday evening because we wanted to discuss the concerns they had, and we thank them for sharing with us some suggestions, one of which, Mr. Speaker, had to do with the code of conduct.

So we are proposing that the Chief of Defence Staff shall, within three months of the commencement of this Act, make standing orders to establish a code of conduct to govern any member of a unit of the defence force, who is charged under section 5(2) with the duty of assisting any member of the police service in the maintenance of law and order and is engaged in so doing, which shall be published in the *Gazette* and twice in local daily newspapers. So again here we have the code of conduct for soldiers assisting the police, which will be gazetted, which will be done by the Chief of Defence Staff.

Let us remind ourselves that under the state of emergency there were such guidelines, there was a code of conduct, when at that time soldiers were operating with police powers. That is what happened under the state of emergency. There were guidelines there and those would be converted into the code of conduct now that we are giving them police powers outside of a period of a state of emergency.

So I have already talked about we have limited the powers we are giving to them, the soldiers who are assisting police will not be able to interrogate, not be able to charge, not be able to prosecute, and further, they will not be able to carry out any police investigation into allegations made against a person detained. So, they will not do criminal investigations. Clearly then, their function is to assist, to form a bubble of protection, and feet on the ground, more personnel to assist us in the fight against crime. This way we preserve the traditional role and duty of the police service with respect to investigation and prosecution of criminal offences.

Mr. Speaker, some have expressed a concern that the Bill will demoralize the police.

Hon. Member: It will.

Hon. K. Persad-Bissessar SC: Mr. Speaker, they have been doing joint patrols for 10 years. Did that demoralize the police? If it is there are some who say that they feel they are demoralized or demotivated—what could have been worse, Mr. Speaker, than under the previous regime, when you took out officers and others and contracted people, paid them \$5,000 more a month, huh? [*Desk thumping*] Did that not demoralize the police? When for years you could not settle the police wage negotiations and you were not paying them; when it is they did not have vehicles—I think Dr. Rambachan gave us some examples of the vehicles that we provided, we took the CHOGM vehicles, hon. Member for Point Fortin, you remember those vehicles? I am sure you remember the CHOGM well. I think you had an interaction with the distinguished President of the United States [*Laughter*] or was it the Summit of the Americas? I think it was at the Summit of the Americas.

But, those vehicles, Mr. Speaker, we gave to the police; the majority of them. Indeed, right now there is on order more vehicles to come. Demoralize the police. [*Crosstalk*] Who, as Dr. Rambachan said, gave us—you never keep your word, Member for Port of Spain South, never keeps her word.

Miss Mc Donald: Sorry.

Hon. Member: Just continue.

Hon. K. Persad-Bissessar SC: Yeah. So, here we are today. Mr. Speaker, I trust that we will put aside partisan differences, that we will look to the benefits that could come from these amendments and that we will look forward to the debate in the Senate where concerns raised there, we would still have the opportunity for further amendments should those be needed or forthcoming.

In the meantime, I am very happy to say that Members have mentioned the need for training. That training will take place. We intend to have modules in the training curriculum to include introduction to law enforcement, general policing, communications, criminal investigation, law enforcement operations, law regulations, standards of operational procedures, special topics, general proceedings, and human relations—components of a training module, Mr. Speaker.

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The issue raised that several of the military officers are not subject to civil and criminal law, nothing is further from the truth—

Hon. Member: That was raised.

Hon. K. Persad-Bissessar SC:—and I have already dealt with that. There is judicial confirmation that the courts have jurisdiction, in fact. So it is not just that I am saying that on my interpretation of law, but there is jurisprudence in the courts which tell us that the defence personnel already are subject to the laws of the land, the criminal law and so on.

I refer to paragraph 28 from a judgment delivered by Dean-Armorer in the High Court of Justice in Port of Spain in the matter of the Habeas Corpus Act Chap. 8:01, and that matter was between Leon Nurse and the Attorney General. Now, that confusion as to whom to sue, when it is that a police officer or army officer has done something outside of the law, the person you join as a defendant, the Attorney General, is the person named in the lawsuit. Here is a quotation from the judgment of Justice Dean-Armorer.

“I reject as well the argument on behalf of the Applicant, Ricardo De Four that by virtue of his rank as a soldier, he is immune from trial by civil courts.”

That was the contention in the case.

“In my view”—this is the judge—“the clear and unambiguous terms of the Defence Act preserve the jurisdiction of the civil courts.”

So it is very clear that the argument raised by some on the other side that they have no jurisdiction for illegal activity in the civil courts, is not true, as in the Act itself you interpret it and in the judgment of Justice Dean-Armorer.

Citizens, Mr. Speaker, many, have, in fact, routinely sued the AG for compensation and relief in circumstances where they feel aggrieved by the misconduct of police officers as well. So that is the same case. There can be no doubt, Mr. Speaker. In the criminal area, there is no doubt, a soldier murders someone—God forbid—that officer is liable in the criminal court on the charge of murder; any criminal activity in before the criminal courts. That will continue; nothing will change.

I spoke on the Police Complaints Authority. I want to get back to the foundation of our society and that is our Constitution—if I can find it at the moment. Dr. Moonilal, did you take my Constitution? Thank you very much. To the Constitution: as I said, if you have the law, you argue the law. If you have the

facts, you argue the facts. When you have neither law nor facts, you argue the Constitution. Today I have said I have the law, I have the facts and I also have the Constitution. [*Desk thumping*] I repeat; I also have the Constitution.

Here we are. Where are we? See if you find them for me, please. I think that they are here.

Dr. Moonilal: Yeah. [*Crosstalk*]

Hon. K. Persad-Bissessar SC: Mr. Speaker, whilst in my respectful view I am convinced that the legislation before us is in keeping with our Constitution, it is not subverting the Constitution, it is not in breach or violation of the Constitution; that is my view. That is the view of the hon. Attorney General, but it is also the view of others. So we sought legal advice on this matter. We have the legal opinion of former Independent Senator, at present State Counsel attorney-at-law, Dana Seetahal, and we have the legal opinion of Sir Fenton Ramsahoye as well.

I will refer first to the opinion from Senior Counsel, Dana Seetahal. That has to do, Mr. Speaker [*Crosstalk*]*—*I am using that one first because the hon. Member for Port of Spain South specifically referred to the dicta from Lord Diplock in the case of *Thomas v the Attorney General*. In this opinion it specifically addresses that concern, remarking upon the quotation of Lord Diplock that the Member for Port of Spain South dealt with.

There are several examples of Parliament conferring—this is her opinion—police powers of public officers. We have already mentioned those, but I am repeating them; customs, coast guard and so on. Those amendments to their laws were not passed by special majority.

In the Caribbean countries with civil legislation, we have referred to the amendments to their Defence Act to do what we are attempting to do, were passed by simple majorities. As I say, our Constitutions are almost analogue Constitutions, that is to say the provisions are identical in many respects.

Ms. Seetahal has argued very forcefully that the Bill does not alter any provision of the Constitution and there is no need for a special majority. In her advice Ms. Seetahal points out that the Constitution was amended in 2006 to remove from the Police Service Commission the power to appoint, to promote and to transfer police officers or to exercise disciplinary control—

Dr. Moonilal: “Ah ha. Yuh hear that?”

Hon. K. Persad-Bissessar SC:—over police officers. Right here in this Parliament we amended the Constitution—

Miss Mc Donald: But I said that.

Hon. K. Persad-Bissessar SC:—in 2006—[*Interruption*]

Miss Mc Donald: I said in 2006.

Hon. K. Persad-Bissessar SC:—to remove—[*Crosstalk*]

Mr. Speaker: Member for Port of Spain South, please.

Hon. K. Persad-Bissessar SC:—the Police Service Commission—to remove the Police Service Commission—the power to appoint, promote, transfer police officers or to exercise any disciplinary control over the police officers.

In other words, the Police Service Commission has no jurisdiction, no authority, over the police officers, apart from the Commissioner of Police and the Deputy Commissioner. So all the others, no power. This is the opinion of the Queen’s Counsel, Dana Seetahal—Senior Counsel. I continue.

It should be pointed out that the Constitution was amended in 2006 to remove these powers. Further, the proposed amendment to the Defence Act was not intended to permit members of the defence force to exercise police powers at large. As we said, they will be only assisting and they will only have those powers when they are actually engaged.

“In the premises... I am not of the view that the Bill alters the sections...” in any way that is in violation of the sections.

Indeed, Ms. Seetahal quoted from the case of *Thomas v the AG*, the Diplock matter—if I may just use that.

So, Senior Counsel pointed out that the Constitution was amended in 2006 and the Police Service Commission has no jurisdiction over these officers. In addition, she says:

In those circumstances therefore the statement by Lord Diplock that the whole purpose of chapter 8—which is 2009—was to vest in autonomous commissions to the exclusion of any other personal authority the power to make appointment to the relevant services is—her words—irrelevant to the provisions of the new sections, the amended sections of the Constitution.

In other words, the PSC does not come into it at all when it comes to these other officers. Therefore, those words of Lord Diplock in *Thomas v the AG*, Mr.

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Speaker, were spoken about a Constitution provision that was before 2006. So that is not in any way—

She said further the amendment does not give them powers at large, and she ends by saying:

“In the premises...I am not of the view that this Bill alters sections 122, 123 or 123A by making provision for any particular case or class of case inconsistent with those provisions.

Those provisions deal primarily with...“appointment...of members...powers of the PSC in relation to appointments, discipline and termination of...the Commissioner and his Deputies; and...”—the—“powers of the Commissioner...to appoint, promote, transfer and exercise disciplinary control over police officers.

Further the proposed law is not intended to create any special class of police officers.”

Because they have not been given the identical powers of the police.

“Defence Force members remain members of that Force.”

Mr. Speaker, advice from Senior Counsel, Dana Seetahal.

We also have the advice from Sir Fenton Ramsahoye where he says we have the examples where powers are conferred in other Bills where we do not need—where no special majority was needed. Sir Fenton Ramsahoye was of the view that the three-fifths majority was adequate. This law will not be vulnerable to challenge on the ground that is not reasonably justifiable in a society that has proper respect for rights and freedoms of the individual. So, those are the opinions we have received to give us the constitutional underpinning and constitutional validity to the Bill that is before us.

3.30 p.m.

Just one more point I want to make, well, yes, one more point, directly connected; that sunset clause is very vital to us. We are not proposing that we are given these powers forever, and indeed, in Jamaica, Guyana, Bahamas, Antigua and Barbuda, they gave the powers ad infinitum or until such time as Parliament may want to amend it. That is not what we are proposing. Because this is something that is new in our jurisdiction, giving them the partial police powers, we are proposing that at the end of two years that the Bill will cease. So that we have two years to see if it is working; if it is not working, we come back and we review it—

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Hon. Member: Correct.

Hon. K. Persad-Bissessar SC:—if we have to, or, God forbid it may be you on the other side might be here in two years' time, so—

Hon. Members: No, no, no, no, no.

Dr. Moonilal: No, no, God is a good God. No, no, no.

Hon. K. Persad-Bissessar SC:—we will have a two-year period within which to see—

Mr. Roberts: “Ramley”, no way”.

Hon. K. Persad-Bissessar SC:—how it works.

Dr. Moonilal: God is a good God.

Hon. K. Persad-Bissessar SC: We can make revisions, amendments and so on, as we review. [*Crosstalk*] The sunset clause is of vital importance. I think we must remind ourselves that this is not ad infinitum but this is for—

Mr. Imbert: [*Inaudible*]

Mr. Speaker: Member for Diego Martin North/East, please—

Dr. Moonilal: Conduct yourself, man.

Mr. Speaker:—please!

Miss Mc Donald: Because you have to learn to speak Spanish.

Hon. Member: You wish that is true, eh. “All yuh wish it true, eh.”

Mr. Speaker: Please! Please! Member, please.

Hon. K. Persad-Bissessar SC: Mr. Speaker, you would remember some time ago—[*Interruption*]—I came into the Chamber here, I made a statement where we said we would ask Prof. Selwyn Ryan and the team to provide us with a report, “Engaging Youth at Risk”. This was a committee on young males and crime in Trinidad and Tobago. We had asked the committee headed by Prof. Ryan to assist us so that we can get suggestions and recommendations in the fight against crime.

I am very happy to report that Prof. Ryan has submitted his report to us—I think we got it last week—and therefore we would be looking into those recommendations from Prof. Ryan. The recommendations would be taken to the Cabinet and we would deal with the recommendations. But interesting in those recommendations—I have just pulled a few from the report, and these include: to

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deal with the justice system, that we establish family courts across the country; that we develop the culture of community policing; that we deal with the war on drugs and crime and put more resources into the issues of crime, corruption, money laundering and embezzlement. It was only recently I gave, through Minister Mc Leod, my address to the Transparency International, that was last week Friday, where we dealt with several issues, several proposals for dealing with such crimes, white collar-crimes and others.

You would recall in this very Parliament, Mr. Speaker, it was this Government who strengthened the FIU to deal with money laundering [*Desk thumping*] and crimes of that nature, and which took us off a grey list and put us into the place we would want to be, off the grey list.

Further, in dealing with the dynamics of gang behaviour, the Ryan report recommends regeneration of east Port of Spain. We announced the movement of the port—Mr. Speaker, that has already been announced—and, also the housing and community development projects, that south-east Port of Spain regeneration, that work has begun and it is ongoing. I know, and Mr. Tewarie, Minister of Planning and Sustainable Development has several projects, but they are very interesting ones. And as I read this recommendation, I want to congratulate all those who participated in the “Hoop of Life”, and indeed to congratulate the winners of that—[*Desk thumping and interruption*]*—success, yes, the winners.*

At page 62 of the report, the recommendation is to give sport—[*Crosstalk*]

Mr. Speaker: Members, Members!

Hon. K. Persad-Bissessar SC:—to launch a massive campaign to promote sport throughout Trinidad and Tobago. That is one of the recommendations.

Hon. Member: What!

Hon. K. Persad-Bissessar SC: Yes, so I congratulate the “Hoop of Life”.

This morning, Mr. Speaker, my Government signed a loan agreement with Eximbank for us to construct six large sporting facilities at about 175—is it \$175 million?

Dr. Moonilal: TT \$700 million.

Hon. K. Persad-Bissessar SC:—TT \$700 million for the aquatic centre, the national tennis centre—

Mr. Roberts: The velodrome.

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Hon. K. Persad-Bissessar SC:—the velodrome, large sporting complexes throughout the land, throughout Trinidad and Tobago. [*Crosstalk*] I believe one is in St. Joseph, if I am not mistaken.

Hon. Member: San Juan?

Hon. Member: Tacarigua.

Hon. K. Persad-Bissessar SC: Tacarigua. One is in Tacarigua, I believe.

Dr. Rowley: Any in Venezuela?

Hon. K. Persad-Bissessar SC: I would leave you to those in Venezuela, Member for Diego Martin West. [*Crosstalk*] So, we are clear in Trinidad and Tobago that we will—[*Crosstalk*]

Mr. Speaker: Please! Please! Please, Member for Diego Martin West.

Hon. K. Persad-Bissessar SC:—develop the sporting centres; I speak of the “Hoop of Life”—

Mr. Roberts: Let your daughter—[*Inaudible*]

Mr. Speaker: Please! Look, Member, please, please; we cannot be—

Mr. Roberts: [*Inaudible*]

Mr. Speaker: Yes, yes, but you cannot be engaging in that kind of—please! Please, Members, do not engage in crosstalk. You are disturbing the proceedings on both sides. Hon. Member, continue—Prime Minister, please.

Hon. K. Persad-Bissessar SC: Thank you, hon. Speaker. [*Laughter*] At least we are keeping them awake. [*Laughter*]

So, the report talks—a lot of recommendations, we will take this report to the Cabinet, we will look at the recommendations and see which ones we can implement, but certainly we have already begun to do some things in the area of sport with more to come. The Life Sport Programme, the “Hoop of Life”, the construction of those under local government and the Ministry of Sport. Throughout the country we have recreation grounds being refurbished, rejuvenated and so on. [*Desk thumping*] So, we want to thank Prof. Ryan and his team for the work that they have done in compiling and producing this report for us for consideration.

As I close, Mr. Speaker, sometimes you would have—some would believe that this measure has no support in the country, none whatsoever. I have received

numerous phone calls, I have received numerous emails and text messages, and I have read in the newspaper Ms. Daphne Bartlett of San Fernando, some interesting words—

Miss Cox: “Oooh.”

Hon. K. Persad-Bissessar SC:—where she said, you are talking about a police state—she says, “Well, I prefer—*[Interruption]*”

Mr. Speaker: Please, Member!

Hon. K. Persad-Bissessar SC:—a police state to a criminal state.” Mr. Speaker, I prefer neither of those. I prefer a State where there is peace, *[Continuous desk thumping]* there is harmony, where our citizens can live in safety, in security, that you can sleep in your bed at nights knowing that you are safe, your children can go to school knowing they are safe, we can walk the streets, go shopping, do our business—

Hon. Member: You prefer that?

Hon. K. Persad-Bissessar SC:—that we have a greater sense of security. Whilst this measure alone will not do that, it is but one of the initiatives that we have brought forward in our governance.

We came here in this Parliament with—we came to Parliament with several pieces of legislation in the fight against crime. The legislative agenda is one, but there are other things that we must do: the administrative, Mr. Speaker, the social programmes that we have initiated as well, and I said it long ago and I repeat, that crime fighting has to be a holistic one, it starts with the prevention, detection, conviction and thereafter rehabilitation. In all arenas, there are initiatives that the Government has pursued and will continue to pursue.

Mr. Speaker, time will not permit me to do that, but let me just say, in addition to Ms. Bartlett—I saw some people were not very happy when I called her name—I have also received a press release which has been issued by the Trinidad and Tobago Chamber of Industry and Commerce—

Mr. Roberts: More than that.

Hon. Member: Who is it?

Hon. K. Persad-Bissessar SC:—Chamber of Industry and Commerce, and I quote parts of it because time again will not permit:

“With this in mind, the Chamber lends its support to the Defence (Amendment) Bill 2013,”—*[Interruption]*

Hon. Member: “Yeah, yeah.” Well done. Well done. [*Desk thumping*]

Hon. K. Persad-Bissessar SC:—“as we believe that this measure could represent an effective weapon in the crime fighting arsenal at this time. We note that we have had joint police-soldier patrols in the past in order to maintain law and order and this has had some impact on crime. We believe that giving soldiers ‘the same powers...privileges and immunities as are given by law to members of the Police Service, and others can potentially have a positive impact on the reduction of crime. [*Desk thumping*] However”—so, they give their support—“equally, there must be the necessary controls, checks and balances in place to ensure that no breaches of our...rights...”

Which is our constitutional rights, which I have shown that in four ways we will have those checks and balances—the criminal law, the civil law, the constitutional law of the land, in addition the military law and in addition to that as well, the Police Complaints Authority, and in addition to that, six, the code of conduct. So, in six arenas the checks and balances would be there.

After all, Mr. Speaker, living in a society grounded firmly in our Constitution are the laws of the land, what we have to do is to seek to strike a balance between the right of the individual and the right of the rest of the individuals. The Constitution is not one way. It is a balancing document, that at all times you must have respect for the individual and his rights, but that right must be balanced against the good for the other individuals in society, and that is why you have things where you must get authority and permission to have a march, because if 10 people want to march along the same road, what is going to happen? You would have chaos. It is a balancing of the rights of the individual and the rights of other individuals, in the State.

And, as I close, finally, I guess when the Chamber’s press release—I read it, I did not think they grimaced as much as when we spoke of Ms. Daphne Bartlett, but I have another document here, from the ASJA, the president of the ASJA in which he says, “We support your gallant efforts in the usage of the defence force and army personnel in the manner in which they will be deployed with the safeguards that will be put in place which become necessary to avoid any abuse of power.”

Mr. Speaker, I thank you very much. [*Desk thumping*]

Mr. Speaker: The Member for Point Fortin. [*Desk thumping*]

[*Mrs. Paula Gopee-Scoon rises*]

[*Desk thumping*]

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Mrs. Thomas: “Go Paula; go Paula; go Paula.”

Hon. Member: “Oooh, oooh.” [*Desk thumping*]

Mrs. Paula Gopee-Scoon (*Point Fortin*): For a moment, Mr. Speaker, I thought all of that applause from the other side was in fact for me. [*Laughter*]

Mrs. Thomas: It was. It was. [*Crosstalk and laughter*]

Mrs. P. Gopee-Scoon: Mr. Speaker, there has been a lot of discussion coming forward through the last few days and I am wondering why all of these discussions were not in fact held before the Bill was drafted and not while it is here before the Parliament and then it would have been a difference. But, of course, this Bill then appears to be a pick-up Bill coming from a pick-up side—

Mr. Imbert: “Hmmm.”

Mrs. P. Gopee-Scoon:—and their modus operandi is not at all surprising. [*Interruption*]

So, Mr. Speaker, once again, they seem to have some concern about the interactions which I have had with the President of the United States.

Dr. Moonilal: “Ooh.”

Mrs. P. Gopee-Scoon: I want to draw the public’s attention to the photo/op, the photograph which I saw with the hon. Prime Minister and the hon. Attorney General of the United States. I found that the Prime Minister was beaming and in glee, and it was as if she was almost begging to be hugged—[*Interruption*]

Hon. Member: What! [*Laughter and crosstalk*]

Mrs. P. Gopee-Scoon:—and it was a lovely photo, Madam Prime Minister, but I saw the look on your face. You cannot get away from it. [*Interruption*] All I am thinking, begging to be hugged. All I am thinking—[*Interruption*]

Sen. Ramlogan SC: You are the hugging expert. [*Laughter*]

Mrs. P. Gopee-Scoon: Your protection, please? [*Mrs. P. Gopee-Scoon sits*] [*Interruption and crosstalk*]

Mr. Speaker: Yes, Members! Members on both sides, may I—[*Interruption*]—Members, may I ask that you observe Standing Order 40(b) and (c) and allow the Member for Point Fortin to speak in silence. You may continue, hon. Member.

Mrs. P. Gopee-Scoon: Thank you, Mr. Speaker, but very lovely picture, indeed, close up, so I trust that, Madam Prime Minister, you would have used the opportunity to discuss with the—

Mrs. Persad-Bissessar SC: “I didn’t grab him.”

Mrs. P. Gopee-Scoon: No, I know you would not grab him, but I am trusting that you would have used the opportunity to discuss with the hon. Attorney General matters of concern between the US and Trinidad and Tobago, and I am not going to go into details on that, but that is the way diplomacy goes, and I hope that you used the opportunity—read between the lines—to deal with particular matters that are before us now. [*Interruption*]

You drew our attention to the fact that there has been a lull in murders in the last few days, and I want to say that we are—in fact, the PNM is always pleased when the murder rate is going down. That is a fact. [*Desk thumping*] So that we too are pleased to see the decrease in the number of murders coming out from Laventille and throughout the country. [*Desk thumping*] We are pleased about that.

3.45 p.m.

Therefore, I say if that is so, why do we need to go to the “soldier/police” and this Bill that is before us? [*Desk thumping*] if it is that the murder rate is coming down. What is the relevance of all this sunset clause and so on? I am saying, we are going good just use all of the arms. [*Interruption*] No, this is under you, and I will come to that. [*Crosstalk and desk thumping*] Let us use—no, no—we are interested in the security, in the safety of the citizens of Trinidad and Tobago and if any criminal rates are going down, we are pleased about that. Right? So all of this sunset clause and so on, which you are seeking to support this Bill. There is no need for that, there is no need for this Bill.

Somewhere along the lines I was very disappointed, hon. Prime Minister, that you seemed so confused about the use of multiple security apparatus and how they work harmoniously and in conjunction with each other. Therefore, again, I make the point but just fleetingly, I do not understand why you then dismantled the OPVs and SAUTT which were there to work in conjunction with all of the other security apparatus, and you sent home everybody from SAUTT. I do not know if that had anything to do with political affiliation.

But anyway, you said—again, going back to the statistics which you all choose to use conveniently, you said that the murder rate is declining under you

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and you quoted some statistics. I hope I got it right. In 2010, 485; 2011, 354; but of course that was the year of the SOE. In 2012, 379; but in 2013 when I checked, I remember I was in Point Fortin for a public meeting, the rate that day was 88 murders for the year thus far. At February 05, it was 88 murders for the year and that translates to a murder rate per annum for 2013 of 501. *[Interruption]*

You like to use your statistics conveniently and if you use the 88 as at February 05, that is what it translates to. From 379 in 2012, that is what this country can expect. You want to use the statistics conveniently; well I am using them as well. It amounts to 501 per annum for 2013. But thankfully, you do not have SAUTT to blame for that. There is no SAUTT to blame for that.

Again, you spent a lot of time talking about SAUTT, “eh”, much of your time, as if almost as if you are an expert on SAUTT and yet you cannot tell us anything about the Flying Squad. *[Desk thumping]* All of this, a year and a half that this has been in operation, you cannot tell us anything about it, but you are an expert on SAUTT, you spent a lot of your contribution talking about that. Then you said you made a statement about—*[Interruption]* Excuse me?

Mr. Speaker: Hon. Member, refer to the hon. Member by name, please—electoral district.

Mrs. P. Gopee-Scoon: Thank you very much—then you keep talking and you made the statement about “To cease to change is to cease to exist.” Quite true. “To cease to change is to cease to exist.” I want to tell you that the country is very, very familiar with that statement and this is why I am saying here today, on account of your actions and inactions, this country will in fact not cease to change and your time in office is going to be very limited. That is the application I wanted to use your statement towards. That is the reality of your performance to date.

I want to go back—I will come back to some of the things that the hon. Prime Minister was referring to—but there is another statement which was made by the Member for St. Augustine and I want to draw attention to that. He said that the People’s National Movement did nothing about checking containers—*[Interruption]*

Hon. Member: What?

Mrs. P. Gopee-Scoon:—yes, coming through the ports. You said that. You said that we did not set up any scanners as well. I want to correct that because that statement is not at all true. *[Crosstalk]* Mr. Speaker, may I have your protection?

Mr. Speaker: Yes, you have my protection, continue.

Mrs. P. Gopee-Scoon: I want to say, Member for St. Augustine, that statement is not true. As far back as 1995 under the then Minister, it was Minister Wendell Mottley at the time, the first container examination station was opened up at the Point Lisas port under us. Then in 1998 a similar station was established in Port of Spain. It is that very, very container examination station where in fact the containers were found with chickens and in it there was also drugs and so on at Point Lisas.

So the statement that you are making that we did nothing about setting up scanners and examination centres and so on, is not true. It is at that very station in Point Lisas that all of these, the drugs and the chickens were discovered and so on, and car parts and drugs and that kind of thing. I will tell you something, even when the last administration was in office, there were negotiations underway with regard to bringing in scanners. I do remember a Chinese loan facility being set up primarily for that, and in fact we were setting up all the physical structures to accommodate these new scanners as well. So, to say that our Government did nothing about bringing in scanners and so on, it is very misleading Member for St. Augustine, very, very misleading. Okay?

So that, Mr. Speaker, one would think that the PNM Government has acted very irresponsibly throughout the years when it comes to matters of security and so on. [*Desk thumping*] Have your time, have your time.

Sen. Ramlogan SC: You deserve a hug for that.

Mrs. P. Gopee-Scoon: Have your time. But, Mr. Speaker, from as far back as 1956, we were the ones who, under the then Chief Minister Eric Williams, brought this country to independence and we were the ones who therefore worked with and developed the necessary machinery and apparatus to ensure that this country and its people were safe and secure. We were the ones who established—and the Member for Port of Spain South spoke about the constabulary which existed before, but we were the ones who used the opportunity to divide them, to establish the police force and, in fact, the defence force.

Therefore, the defence force and all of its constituent parts, the coast guard, the regiment, the air guard and so on, they were all established under us. Helicopters were purchased, patrols were assumed, all of that. We focused on the rule of law. We provided an expanded police service. All of our fire services were upgraded. We were the ones who built the Forensic Science Centre and equipped

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it. We were the ones who did that. We transformed and we strengthened the police service. All of that continued. That was always a work in progress. We introduced several anti-crime initiatives as well.

Nevertheless, we know that it continues to be an issue and it is not because of the administration, not because of the then administration, it is because we are dealing with an international scourge, international crime. This is what we are dealing with, Mr. Speaker. The Government as well would like the country to believe otherwise, but it is that the PNM always had at its forefront the safety and security of the nation and of its people. [*Desk thumping*]

Mr. Speaker, nevertheless, I am pleased to speak this afternoon in support of the defence of the democracy of Trinidad and Tobago, I am very pleased to do that, and I make the point most emphatically that if I am to support the democratic traditions that are enshrined in the Constitution of Trinidad and Tobago, and as it is my solemn duty to do so, then I cannot support this Bill which is to amend the Defence Act, Chap. 14:01.

What does this Bill seek to do? I will try not to regurgitate, but this Bill seeks to give soldiers the power of arrest, something that no administration in this country ever seriously contemplated. Like any serious matter, it may have been discussed, but no policy decision was ever taken on the question of giving soldiers the power of arrest. Why was this not done? It was not done because it is prone to major risks. It has the potential to create a police state where the powers to arrest and detain will fall under political control.

Mr. Speaker, these are very, very dangerous powers, that is the powers to give soldiers the power of arrest and it is a very dangerous power that any government should have. Whilst it is that the Constitution envisages that in extraordinary circumstances, the Government can exercise such powers—for instance, under the state of emergency which the Government did only last year—this Bill means that such powers will become a routine part of our everyday existence, and that is what we are afraid of. We have no problem with these powers being exercised if it is for extraordinary circumstances, but not to be a part of our routine, everyday existence.

The hon. Attorney General will want us to believe that this is the case that has happened in the Bahamas, in Guyana, Jamaica and Antigua. This is the impression which they want to give. But I am saying to you that that is not so. There must be a state of emergency. It is only in the case where there is public

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disorder, okay, not just in law, where there is public disorder that the Constitution is suspended and the army has powers that it will not necessarily have under its control.

The Prime Minister has gone on to repeat the hon. Attorney General and citing the Jamaican situation and the Antiguan situation, but it is very specific in the case of Antigua that a proclamation has to be first issued by the Governor General in that country, that a situation of public disorder exists. That is what has to be done. A proclamation has to be first issued by the Governor General and that makes sense, okay? That makes sense. But what you are purporting to do here in terms of allowing it to be a routine part of our everyday existence that cannot hold. It is only in times of public emergency, and we are very, very, very clear on that.

So that, Mr. Speaker, it is difficult to believe, and even by the statistics that they have given, that we are anywhere near the need for those kinds of draconian measures. There is absolutely no need for these measures. You have had the Minister of National Security, the hon. Member for Chaguanas West, he has assured us that the rate of serious crime, with the exception of murder, is under control and declining. He has given us that assurance.

The hon. Prime Minister, the Member for Siparia and who is also the head of the National Security Council, she also has assured us that serious crime is on the decline. Again, only on Wednesday, the Member for Oropouche East, he gave us such assurances as well. So then if that is so, I ask the question, why do we need a measure which the Police Service Social and Welfare Association considers a threat to our democracy? And the Law Association as well considers it also a threat to our democracy. If it is that you say that these statistics are declining, why do we need to go that way? Only yesterday the Criminal Bar Association was on record expressing its concerns with this and other pieces of legislation as well.

So, Mr. Speaker, the lawyers do not want it, the police do not want it, the Criminal Bar thinks it is a waste of time and will make no difference, and I am sure that if we were to ask the army as well, they too will say that they do not want it either. So then, what is the point? I am really wondering if the purpose of this is to just give certain persons some kind of private army to move around with.
[*Laughter and Crosstalk*]

4.00 p.m.

Nobody wants it and you have sought to assure us that the statistics give no basis for it. Then I am saying, the people just want to have a private army and so

on, to lock up any opponents to the Government—right?—persons who they cannot force the independent police service to arrest. So I can only think that is the reason for it, Mr. Speaker.

But, really, if it is that the strategies are working—the strategies of the Minister of National Security, Mr. Speaker—except for the minor troubling of an escalated murder rate—and I am being very, very sarcastic here—then why must we trample our democratic traditions? Why are we doing that?

Mr. Speaker, you know, I do not have the experience, and you certainly do not have the experience of the Member for Chaguanas West, who I understand was a special reserve police, but I am sure that you know—and everybody knows—*[Interruption]* Mr. Speaker, I cannot speak with the murmur that is on and I need your protection.

Hon. Members: Your colleagues.

Mr. Speaker: Again, may I appeal to all Members to allow the Member for Point Fortin to speak in silence in accordance with 40(b) and (c). Hon. Member, you may continue.

Mrs. P. Gopee-Scoon: Thank you, Mr. Speaker. What I am saying is that—I mean, it is not rocket science, but—everybody knows that before you arrest and detain you have to be able to do the investigations, to interview the witnesses and to be aware of all the relevant laws that need to be applied. So I am saying that your approach, really, is to deal with one thing and one thing only, which is the increasing murder rate. That is the major concern.

But we are saying that, yes, our soldiers do, in fact, do a wonderful job in the areas for which they have been trained. They have no training in the detection of murders which will allow them to investigate and arrest persons and, therefore, I do not think that they could be of any use in terms of dealing with this one particular area of crime, which is the escalating murder rate. I do not think that these soldiers would be of any use in dealing with that particular area of crime which the Government, of course, is saying that that is the only area with which we have problems and which they do not exactly have a handle on. But I am saying—

Dr. Douglas: What are you saying?

Mrs. P. Gopee-Scoon: What am I saying, Member for Lopinot/Bon Air West? I am saying that our soldiers work well, but I do not think that they are able to handle the murder rate—the escalating murders in this country.

Sen. Ramlogan SC: “Yuh go ha to put dem in SAUTT.”

Mrs. P. Gopee-Scoon: Mr. Speaker, we have heard some assurances, I think it was from the Member for Oropouche East, that there are grand plans for training and that these will be expedited through facilities at UWI and so on, but the point about it is, whether you train them or so, the point is they will still remain soldiers, and it is very, very confusing to them. You cannot expect them to be both soldiers and also police. You cannot expect them to be both. Right?

So that I was very happy to hear the Minister as well, the Member for Oropouche East, speak about the vehicles and the bulletproof vests that are enjoyed now by the police service and all of the new facilities that are under construction. But what he did not say, as well, is that these were all in train under the People’s National Movement. [*Laughter*] That is a fact! [*Interruption*] No, no, no. Certainly, the hon. Member for—

Hon. Member: A big joke.

Mr. Sharma: “Woulda, coulda, shoulda!”

Mrs. P. Gopee-Scoon:—the hon. Member of Parliament for Laventille East/Morvant can attest to that, that all of these projects were in train under the PNM and formed part of the projects initiated by us. So that when you ask for ideas, which you did consistently throughout your contribution, you are, in fact—you already have them. You already have those ideas. But the point about it is that you all are such poor managers and implementers, that this is the issue. You cannot implement, and you certainly are the ones who would never be able to take this country to developed nation status. In fact, under you, we are fast approaching the status of a failed state.

So I feel very sorry for the Member for Oropouche East, who was asking us to give him ideas to tackle the crime and other problems facing the country, and the only suggestion I wish to proffer to the Member for Oropouche East is that if he really is interested in the welfare of the people of Trinidad and Tobago, there is only one thing that he can do, and which is to call an election now. [*Desk thumping*] Call a general election now so that the people can return to the competent and caring hands of the PNM which they are, in fact, longing for, and you will be hearing about that.

Then the Member—you also went on to say—for Oropouche East, you went on to say, you know, that they have been very courageous in trying something different. But really, all that we have seen is nothing more than a lot of “vooping”

and swiping at any half-baked ideas that are presented but, really, we have seen no real plans and strategies coming from you all.

I think you should really listen, at least to your colleagues in the Criminal Bar Association. They have clearly said that pieces of legislation like these—like the Bill that we are debating today—will really have no effect on the level of crime. It is useless, and that is a fact. You should listen to your colleagues. But again, as I said, you gave us the assurances that they will be trained before going out on the field, but we know from past and recent experiences that we cannot trust you; that we cannot rely on you; that that will, in fact, be so. We know that the people of Trinidad and Tobago have no confidence in you.

The point about it is, Mr. Speaker, this Bill, the statement on the Defence (Amdt.) Bill, is nothing but really a very desperate attempt to camouflage the effect that the Government is floundering; the Government is failing in terms of its attempt to provide for the safety of the people of Trinidad and Tobago, [*Desk thumping*] and the act of desperation is seen, in fact, in the statement in the *Newsday* of today, March 15, section A, where the Government sought to put out a paid advertisement—a statement on the Defence (Amdt.) Bill.

That is not how laws are made in this country. You come to the Parliament, you present a proper Bill which is debated and at the end of the day, if it is good law, it is passed. But where you have to resort to PR, in this case a full-page ad, Mr. Speaker, I mean, this is a cry of desperation on the part of the Government. Then, of course, there are statements in there—I shift a bit to some of the statements that are made in there—statement number two—which are at odds with what the Prime Minister herself has said here today. It says here:

“Not all Soldiers would be utilized in this programme. The Chief of Defence Staff would be responsible for the selection of the recruits in this exercise and will remain under his command.”

The statement goes on to say, number 8:

“We wish to assure the national community that the Police Complaints Authority will remain as the special national institution where any aggrieved citizen can come forward with any perceived complaint or allegation against any member of the police force.”

Again, Mr. Speaker, I mean, number one, this is offensive to the public that this is the way in which you have to approach the making of legislation. But then again, what you are saying here, Mr. Speaker, again, is contrary to what was said before by you all.

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Was it not that you said that an amendment to the Police Complaints Authority Act would bring them under the PCA and that the soldiers will fall under the Commissioner of Police? That is what you have said, and the hon. Attorney General will have to correct me because I am certain that this was said and reinforced on your side, and then you have come to the public saying something differently. Again, I am not surprised, but you will have to address those concerns, because they are completely at odds with the statement and also previous statements made by you all during the course of the debate.

As I said, Mr. Speaker, this is an act of desperation in your attempts to rein in the crime situation in this country, so much so that you are prepared to sacrifice our democracy in an attempt to salvage some political points. That is what it is about. [*Interruption*] So that I want to say that the party to which I belong—and I will certainly live and die a PNM. The party to which I belong has really—I am concerned about the—[*Interruption*—excuse me? Mr. Speaker?

Mr. Speaker: Please, Members, please. Continue hon. Member, please.

Mrs. P. Gopee-Scoon: Thank you very much. “Doh” try any smartness with me, calling for the Attorney General to rise on this occasion.

I was saying, Mr. Speaker, the party to which I belong has, for over 57 years, cherished and nurtured our democratic traditions, [*Desk thumping*] and, therefore, I cannot be part of this Bill. I represent the people of Point Fortin and they, too, cannot be part of this Bill. This party cannot, cannot, cannot—no right-thinking citizen could, in fact, identify with this Bill which, as the Member for Diego Martin West says, is intended to create a new creature called the “soldier/police”.

So that, Mr. Speaker, whenever—and you will notice a trend being established. Whenever the Government wants to do something dangerous, you can always tell. It is by its abandonment of all the required processes and procedures which we have in this country to ensure that our democratic traditions are, in fact, maintained. [*Desk thumping*]

We saw it in this very House when you were ready to insert that very devious section 34 of the Administration of Justice (Indictable Offences) Act, that you abandoned your own procedures and you had a Minister making amendments, and making and breaking commitments of which the Cabinet supposedly was unaware. Right? At least, so we have been told. But that is their *modus operandi*.

But, Mr. Speaker, it is almost a very similar situation that exists with this Bill that we have before us and, certainly, the Member for St. Augustine—he is not

here, but he has some answering to do. He has to tell us whether, in fact, this Bill went before the legislative review committee before going to Cabinet for its deliberation. As you know, this is a subcommittee of Cabinet which is supposed to review this legislation coming out of the Chief Parliamentary Counsel's office before it makes its way to Cabinet and the Parliament, and I have been advised, Mr. Speaker, that this Bill was never seen by the CPC's office. [*Desk thumping*] It was never seen by the CPC's office, and that the drafting was done by some former President of the Law Association—I do not know who that is—who probably has no legal drafting experience, hence the reason [*Desk thumping*] for the very piecemeal approach in presenting us with this Bill, Mr. Speaker.

I mean, I do not want to believe what I am hearing, but certainly I am expecting that when the AG winds up that he is going to bring some clarity to it. But I read, Mr. Speaker, in the newspapers that the Member for St. Augustine, who is chairman of the LRC, the Legislative Review Committee—and he said that his party did, in fact, have some concerns

4.15 p.m.

Mr. Speaker, please permit me to read from the *Trinidad Express* newspaper of Monday, March 11, 2013, a report in which the Member of Parliament, the Member for St. Augustine, is quoted under a headline which read, "COP supports Defence Bill", and I quote:

"Ramadhar said: 'Serious concerns were raised today for us to really reconsider and to take to the Cabinet that whether legislation will come, will truly reflect the views of the Congress of the People as a partner in the (People's) Partnership.'"

Mr. Imbert: What!

Mrs. P. Gopee-Scoon: This is on the 11th after the Bill had been brought before us. I continue:

"It is important that every partner will have their say and certainly into the policies and legislation that will flow from this Government."

This is the head of the LRC speaking after the Bill was first presented, Mr. Speaker. He is supposed to sign off on the legislation before it is taken to Cabinet, but this is he speaking after. [*Desk thumping*] So I am told that the first time the Member for St. Augustine actually saw that Bill, it was when he was in Cabinet—it was at the Cabinet meeting—and he has tell me whether I am wrong.

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So the constitutionally protected Office of the Chief Parliamentary Counsel, which is supposed to draft the legislation to present to the LRC, they were completely left out of the loop. They are smiling behind there. So that I have been advised that it went straight from the drafter, that is, the former President of the Law Association, to the Cabinet, bypassing the CPC, the LRC and the Member for St. Augustine and others. That is the sorry state of affairs. [*Desk thumping*] So I have a concern that if this is the way that the Government intends to treat with serious legislation that requires a special majority, constitutional majority, this country is in serious problems.

Dr. Browne: Military state.

Mrs. P. Gopee-Scoon: We are in serious trouble, and this is just another section 34. The question is: which one is bigger? Well, section 34, you could never get away from that. “You cyar live that down.” [*Desk thumping*] But at the same time, this is another section 34 where major legislation is once again just being rushed, bypassing all of the checks and balances which had been set up; no consultation, et cetera, bypassing the normal checks and balances which have been set up to protect the citizens of Trinidad and Tobago [*Desk thumping*] from such a rush to judgment, Mr. Speaker.

So this passage of legislation, especially legislation that fundamentally alters the Constitution, it requires cool heads and very mature and extensive deliberations, not the kind of rush job that we have before us today, Mr. Speaker. Cool heads and mature deliberation, so absent from this Cabinet before us. So like section 34, the issue that we have to confront in considering this Bill is whether we can trust the powers that have been conferred unto this Government, or that the Government hopes to have it conferred to itself through this Bill, Mr. Speaker, and to the Minister of National Security.

Mr. Speaker, there is a particular matter which constituents in Point Fortin have, in fact, asked me to speak of, and it is that the Attorney General, I believe, and also the Member for Chaguanas West, in their contributions spoke about all types of crime, including transnational crime, including money laundering and so on. So that I am really concerned about a report which was in the *Sunday Guardian* last week, an investigative report. It is very troubling to me and to my constituents. It speaks to the very issues of the Bill before us and I wish to quote from that report which is headlined, “Minister’s son under sealed indictment in US”. I do not know what they are speaking of, but I quote:

“A Sunday Guardian investigation has revealed the minister’s son is under house arrest in the US and is also assisting the Federal Bureau of

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Investigations (FBI) and the Internal Revenue Service (IRS) with investigations.” *[Interruption]*

Dr. Ramadharsingh: Mr. Speaker, 36(1).

Dr. Rowley: Is your son?

Dr. Browne: The mafia rises. *[Laughter]*

Dr. Rowley: Thank you for telling us.

Mr. Speaker: Just connect your matters so at least—

Mrs. P. Gopee-Scoon: Thank you, Mr. Speaker.

Mr. Speaker: Just connect your matters and be careful. That is what I can tell you.

Mrs. P. Gopee-Scoon: No, it is only out of concern raised by my constituents, and certainly it is because the hon. Attorney General and also the Member for Chaguanas West raised the questions of transnational crime and the control of it, and also money laundering that I am here. *[Desk thumping]* They raised it, that I feel that I can speak of it. The article went on to speak of the FBI and the IRS investigating, so I want to go back to the quote:

“Sources say that US authorities have already signalled their intention to interview the minister,”—I do not know who that is again—“who they say will assist greatly in their investigations.”

The point I wish to make about it is—and I am certainly not casting aspersions on anybody—this is a very serious matter. I am not going there, but it is a very serious story.

If this Government, anybody at all is interested in the maintenance of the rule of law—Member for San Fernando West, Member for St. Augustine, Member for Arima, Member for D’Abadie/O’ Meara, if it is that you all are interested—and I am just choosing a sprinkling of you—in the maintenance of the rule of law and the country’s national security, then why is it that this Government has not taken any immediate action on the basis of this story which has been exposed? What I would have expected was very early up, a very vehement statement coming from the Minister of National Security—*[Interruption.]*

Dr. Rowley: Who?

Mrs. P. Gopee-Scoon: Yes, because it is his responsibility, the Minister of National Security—who would have made a very vehement statement denying it,

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certainly, but certainly after alerting the police. I would imagine this is who he would alert immediately after seeing that report. I mean, I do not expect him to rush to travel to the US to deal with it because I know that—[*Laughter*] No, no, no! I just know that after all of the extensive travel under FIFA that he is jet-lagged and [*Desk thumping*] it is not that he has the fear for flying. It is just that he is—why are you all laughing? [*Laughter*] Member for Couva North, this is not a laughing matter.

Miss Ramdial: But why are you laughing?

Mrs. P. Gopee-Scoon: Because you are carrying on behind there, Member for Couva North.

Dr. Browne: They know what you are talking about.

Mrs. P. Gopee-Scoon: So, Mr. Speaker, this is a serious matter and I expected that the Minister of National Security—and there are others who I will speak of there. Right? He has expressed his concern about transnational crime. This is where I am coming from, and he should be assuring the population that no Cabinet Minister at all is implicated in this matter. That is the kind of statement that we want to get from him. The point about it is, neither he nor the Prime Minister have, in fact, referred the matter to the Police Commissioner as they have chosen to do with the flying squad. [*Desk thumping*] That is the kind of action that we would have expected.

I do not know, Mr. Speaker, maybe they are waiting on the passage of this Bill that the “soldier/police” can investigate it. Maybe that is what they are waiting on, but it is a serious matter. Because, you see, the hon. AG, the Minister of National Security and so on, under our Constitution, they have sworn to uphold the Constitution and the law, and yet—I understand that the Member for Chaguanas West was actually daring the media to call names, and yet these are the people who have said that they will uphold the Constitution and the law. [*Desk thumping*] Right? But if you are going to be serious about fighting crime, you have to come forward to the nation with a proper statement on this. That is what should be coming from you.

I am very, very disheartened about the response from the Prime Minister as well; very, very disheartened on this matter that touches all issues of crime which the AG said that we should be concerned about. You spoke about it, transnational crime. It speaks about money laundering, transnational crime, which you all alluded to in your contributions—persons of high social standing involved in criminal activity. I think he even accused a close colleague of the Member for St. Augustine being part of some criminal conspiracy. There was some talk of that.

This is a matter that goes—[*Interruption*—no, no, no, go back in the *Hansard* and check it. This is a matter which I expect that the Prime Minister, as head of the National Security Council and head of the Cabinet, should, in fact, put to rest because it goes to the very credibility and legitimacy of the Government, but instead, what we have heard from the Prime Minister is that she is in the dark. That is what we have heard. Right? She is in the dark. So what you have is the head of the country's National Security Council totally oblivious and unconscious of this very serious state of affairs. This is unpardonable, unforgivable, and I am saying that the country needs to know more.

You have a Minister of National Security busy peeping into people's bedrooms in Maraval, also in St. Joseph; [*Laughter*] busy peeping into people's bedrooms. [*Laughter*]

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Point Fortin has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

Question put and agreed to.

Mr. Speaker: Before you continue, I think it is a good time for us to break or take our tea. This sitting is now suspended until 5.00 p.m.

4.26 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mrs. P. Gopee-Scoon: So, Mr. Speaker, I had just completed—finished with a particular investigative report and I do not want to go back there again. I spoke to that investigative report which was in the *Sunday Guardian* and which is of concern to the people of Trinidad and Tobago.

I suppose I was making the point about the Minister of National Security really, instead of peeping into people's bedrooms in Maraval and St. Joseph that he should, in fact, examine his own household. When I say his own household, I mean the Ministry of National Security for which he has responsibility and to ensure that the country and the country's laws are being upheld, and that anybody who is guilty of any transgressions whatsoever that they are arrested, and, of course, arrested by the police and not soldiers.

So that, Mr. Speaker, if the AG wants us to support this Bill at all that he has put before the House, he really has a responsibility to tell us that the soldiers to

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whom he wants to give these very draconian powers of arrest that they will be—he will have to somehow convince us that they will be operating impartially and independently, and that they will not have one rule when they are dealing with a Minister's son and another rule when they are dealing with the other members of the public. So that I need also from the AG a very categorical statement that he has liaised with his American colleagues and that he can assure this House—this is what I want him to address in the wrapping up—that there is no interest in any members of the Cabinet, his Cabinet colleagues or his family. That is the statement I want to hear coming from him.

So what we have, Mr. Speaker, and we have had before us, is yet another piece of legislation which we are told is aimed at fighting crime and so on. Although there have been previous pieces of legislation which were introduced by the Government, and many of them we assisted greatly with, and, of course, some of them were passed with the support of the Members of this side of the House. But, the point about it, I think the one which is before us, will have no significant dent on the incidence of crime. In fact, I think it is going to create more confusion more than ever, and certainly the Criminal Bar Association has reminded us that they themselves do not think that this will have any great effect on crime—this piece of legislation.

It is because, you see, you continue to ignore and set up the right policies to ensure that non-legislative actions can, in fact, work and can be used to make a big impact. That is what you need to focus on, smart policing, making sure that all the security agencies can come together like a well-oiled machine. You have made some terrible mistakes in terms of dismantling the OPVs and so on and not understanding the significance and benefits of it, but this is what you should be focusing on now, not this whimsically put-together piece of legislation, but really, as I said, bringing together harmoniously all of the various agencies. All of them, can function and can function well, Mr. Speaker.

At this time, there is a little matter that I want to bring up again and that I am not happy about and which is with the—and, of course, the AG, in winding up, can correct me—it has to do with the customs division, Mr. Speaker, which is responsible for manning our ports through which much of the guns and ammunition actually come, and which, in fact, fuel the crime wave which is before this country and which has been before this country for a while. Right? What we really want to have is a very efficient customs department. We do not need “soldier/police” to do that. We want to have a very efficient customs department, and I am not saying that they are not doing their jobs well, but we

need—in addition to the proper security apparatus, and the pulling together of all the agencies, we want to know that we have an efficient customs department as well.

But would you believe—and these are the things that are frustrating to our public servants out there and members of the customs and so on. Actually, you have been frustrating these persons in the exercise of their duties. Because, would you believe, Mr. Speaker, the Public Service Commission has not been able to sign off on the personnel that is necessary to do the job. I have been advised that more than a year ago particular positions were applied for at customs. One is for the deputy comptroller of customs and the candidates were actually shortlisted and sent to the hon. Prime Minister to ascertain whether or not she wishes to exercise her veto.

But, to this day, after more than a year, no one has been promoted and you know how the public service works, that officers below the level which we are seeking to fill also would not be promoted either. So can you imagine the kind of frustration that will emanate and that would result, and the low morale, because you have not been able to fill the position, again, where, in this case, a shortlist has been presented to the Prime Minister and so on, and we have heard of nothing coming from her office—stalling on it and I do not know for what reasons.

It is that—let me now—customs officers have worked exceedingly well and they are the ones who have been able to find in these containers all the drugs and so on with the chickens and so on. So that I think people have been going beyond their duty in the face of this insult to morale and which is to satisfy all of the personnel requirements and so on that are necessary.

So that I refuse to believe that the Prime Minister, again, is choosing to probably sign off or favour a particular candidate. I would not like to think so. Or she might be just deliberately frustrating the hard work of our customs officers, maybe because she probably deems them to be PNM, as she reportedly said, when, in fact—I think so, she is reported to have said when she sanctioned the dismissal of the public officers who were attached to the SIA and SAUTT and so on.

So that we cannot win the war on crime if we frustrate—that is the point—and we demotivate the law enforcement officers. [*Desk thumping*] We cannot do that! Right? You cannot believe that you are going to just motivate them by buying cars and giving them bulletproof vests and so on. Come on! But you have to ensure that they have job security as well, and, again, there is a fair promotion process and fair and transparent process and so on. But, as I said, they, too, have

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said—many of them have said—these public service officers—that they do not want this Bill. The lawyers have said this as well, Mr. Speaker. This is the reason that I cannot support this Bill and give more power to an administration that to me is already misusing and abusing the powers that it enjoys.

I think and I will not spend any more time on it, because I believe the Member for Port of Spain South dealt with the whole question of the defence force and the police service and the Acts which gave effect to their birth and their functioning and their operation and so on. I think she actually dealt with those matters very well. I mean, as I said, the Defence Act is, in fact, a creature of the PNM, Mr. Speaker, post-independence or at about the time of our independence, and it is very clear on the effecting of the defence force and how it will operate and so on.

I think it just needs a little clarification because the Prime Minister sought to mislead the public on a point which was raised by the Member for Port of Spain South. I think she was very clear that the Police Service Commission did, in fact, have the power to appoint officers post-1962. I think she was very clear on that. However, in 2006 there was a constitutional amendment to the Constitution and that was made and that, in fact, gave the power to the Commissioner of Police, the power to appoint. So I just wanted to clear that up, and that I cannot allow the Prime Minister to misrepresent the Member for Port of Spain South. [*Desk thumping*]

As I said, I think that the legislation—the Defence Act and the Police Service Act—is very clear. I do not think that the defence force legislation ever contemplated giving anybody the authority to turn soldiers into police at all. Again, with the police officer, it is very clear again, it is the Commissioner of Police who, under section 123A(2) of the Constitution (Amdt.) Bill of 2006, he has the power to appoint officers. He has the power and the responsibility for doing so. So no Defence Act can, in fact, appoint police officers. I do not know on what basis you hope to do this. All of this that you are doing is highly unconstitutional.

I mean, she was very clear on what we were pre-1962 in terms of the constabulary. She went on to explain what happened after in terms of the break, in terms of having the two separate entities—the army to protect our sovereignty and the police to protect and serve the people of Trinidad and Tobago; very, very, very clear. Section 8 of the Defence Act creates the defence council, speaks to the Chief of Defence Staff and his role and his powers and so on. Section 43 of the Police Service Act gives rights and powers and authorities and privileges and immunities to police officers. Special reserve police also have those powers as

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well. And again, the Member for Port of Spain South was very clear on what legislation existed and exists currently in terms of the operation of these two entities.

So that the point about it is the thinking and the processes on the country's defence mechanisms are very, very, very clear. The police is police and the army is army. That is what it is! [*Desk thumping*] The police is the police and the army is the army. Right?

Another point I just want to establish, that the Police Complaints Authority— [*Crosstalk*—Mr. Speaker, I need your protection, even from my colleagues.

Mr. Sharma: “But nobody eh say anything.”

Mr. Speaker: You have my protection. Continue, please.

Mrs. P. Gopee-Scoon: Right. Thank you.

Mr. Sharma: “Wrap up now, yuh wasting time.” [*Laughter*]

Mrs. P. Gopee-Scoon: Member for Fyzabad, you never say anything. I am sitting in this honourable Chamber, I am concerned for the people of your constituency. They are not well represented. [*Desk thumping*] You never have anything to say on any Bill.

Mr. Sharma: “You looking for ah house in Fyzabad.”

Mrs. P. Gopee-Scoon: You never have anything to say.

Mr. Sharma: “You looking for ah house in Fyzabad.”

Mrs. P. Gopee-Scoon: Anyway, I move on. Ignore!

The Police Complaints Authority, again, I think the Member was very clear about it. Their mandate is to review complaints against police officers. [*Desk thumping*] That is very, very, very clear. A major concern remains that there is no redress in the case of defence officers because they have immunity. That is very, very clear. So to the criminal offenders, there is no immunity when it comes to a member of the defence force acting within his course of duty. So, again, very distinct; soldiers are soldiers, police are police. Again, the confusion will arise with the selection and the selection processes and the identification of these “soldier/police” as well. My constituents are very uncomfortable with this. We find this all very, very deceptive and misleading.

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I think this Government must realize that you cannot play games with something as important as the country's defence. You cannot play sudoku and scrabble with the country's defence because it does not add up. [*Desk thumping*] You cannot attempt to build a hybrid puzzle, which is what you are trying to do, at this stage with the country's defence. This is not a numbers game or a word game or something like that. This is serious, serious business.

Mr. Speaker, again, I come back to the point that you need to sit down, find your solutions, pull your policies together and let them work for you and work for the country. I mean, we saw the effect last year with the state of emergency, no need to go in that again, but we saw the ill-treatment of persons in the streets hauled into trays for no good reason and only to be released after. Mr. Speaker, my constituents and the people of Trinidad and Tobago do not want that.

As I close, Mr. Speaker, the AG in his opening remarks made reference to the death penalty and I feel that he is going back there again. I want to be very, very, very clear that it is the law. Right? It has been the law, [*Desk thumping*] it is the law and we do not have a problem with that.

5.15 p.m.

The problem we had had is that you came here with an amendment, and it was very confusing, involving the categorization of murder and the imposition of timelines and that is the responsibility—that is the problem that we had with that piece of legislation which came before us. Your model, your unique model—nowhere else in the world that exists—was very, very, very confusing and it failed on that basis. It never made it to the House. [*Desk thumping*]

You sought to impose some kind of discretionary power on the mandatory death penalty and creating some new set of delays and so on. I remember the debate very well, making a case for all kinds of constitutional Motions coming from offenders, put me in murder one, not in murder two, et cetera, et cetera. That is what we were against and you were—as far as we were concerned, you were complicating the law and I wonder if in some cases at all you would not have been able to uphold capital punishment. “So doh go there with that argument as you close, at all, at all, at all.” I know there is very little for you to come forward with now and you would be ranting and raving, but “doh” go there with that at all.

The Opposition supports the law of the land. I made that very, very clear for you. [*Desk thumping*] And we, of course, acknowledge all the atrocities of the murders taking place in this country. We are not pleased about that, at all, at all, at all, but at the same time, you have to come back, you have to come with clear

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policy. That is all, clear policy and, of course, using all of the security mechanisms that are in place if it is that you want to really take care of this country and take care of the citizens of this country and bring this place back to some measure of sanity.

We have given you several proposals throughout the contributions of many of the Members—in fact, everyone has spoken. I am so proud of all of my colleagues who have spoken on this Bill. [*Desk thumping*] We have given you many proposals. I ask that you take the time to review them. Take the Bill back, review them and come back with something fresh. Right? Consider them, Mr. Speaker. Come back with proper legislation.

You see, what you did here, this is the Defence (Amdt.) Bill, 2013. You came to us on Friday 08. When you came to us it was a one-clause Bill. That is what it was. [*Desk thumping*] And, somewhere around, I think it was 2.53, we saw some amendments coming around, hot off the press. We even saw a new title to the Bill; some miscellaneous Bill, something. I see we have reverted now to the old title. Right? Or I am not sure. You could clarify which title you are using today. Right?

Then we came back here Wednesday 13, and we thought that was it on Wednesday 13. I was not talking “yuh know”. We thought that was it. But then, again, you came back. There were more amendments again and then you have come today, Friday 15. This is the third day we are discussing this little one-clause Bill that you came here with and you have come here now with a new Bill. You have new amendments today, and that really shows the incompetence of your Government. [*Desk thumping*] It shows the incompetence of your Government.

Chairman of the LRC and Member for St. Augustine, I wish you still had the opportunity to speak. You have to clear the air on this. What has happened? Totally, totally incompetent, yes. [*Desk thumping*] One clause and then, after you continued, then you had deliberations and consultations with the other pockets and members of the institutions and members of the community and so on, then, when you should have done that before. Then you start to have them and you start to make the amendments, based on what they were saying, various committees and associations. And you want to talk about knee-jerk reaction? This is a Bill predicated on knee-jerk reaction. That is what it is. That is the reality of it. [*Desk thumping*]

Mr. Speaker, as I have said, I cannot support this. My constituency, when we have our meetings, these are the kinds of things that we discuss. My constituents

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have said that they will not, they do not expect that we would support this. [*Desk thumping*] My colleagues have been very, very, clear and very explicit that they will not, they cannot. Right? You have work to do. Go back and review and come back again with something else. Come back with policy. That is what we want to hear from this Government, proper policy, proper implementation, proper execution, an intention to uphold the rule of law. That is what we want to get from you. [*Desk thumping*]

With these words—[*Interruption*]

Hon. Members: Thank you.

Mrs. P. Gopee-Scoon: Everyone wants me to stop now but I could go on.

Mr. Jeffrey: Well done, well done.

Mrs. P. Gopee-Scoon: How much time do I have?

Mr. Jeffrey: Well done, well done, excellent, excellent!

Mrs. P. Gopee-Scoon: How much more time do I have, Mr. Speaker?

Mr. Speaker: Ten minutes.

Mrs. P. Gopee-Scoon: Oooh!

Mr. Jeffrey: Go on man, go on man!

Mrs. P. Gopee-Scoon: Oh, Mr. Speaker.

Mr. Jeffrey: Educate them.

Mrs. P. Gopee-Scoon: Mr. Speaker, I have to say that I do, in fact, value the Parliament's time and I think I have made my contribution. I thank you very much. [*Desk thumping*]

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Mr. Speaker, thank you very much,. I believe it was John F. Kennedy who once said, and I quote:

“Every society gets the kind of criminal it deserves.”—But—“What is equally true is that every community gets the kind of law enforcement it insists on.”

Those words are relevant to today's debate, because at the heart of the democracy is the people on the ground who we serve; the people who elected us here to sit here and seek their interest. And those people, the ordinary man and woman in the street, they are the ones who are insisting on a new kind of law enforcement and

they are insisting that their rights, under the Constitution, to life, limb and property and the protection of those things, essential to the very dignity of the human being, that the State must protect it.

This Bill has been made out to be this great radical, revolutionary measure and there has been a lot of hot air coming from colleagues opposite. But, when one analyzes it and breaks it down and lets the smoke blow away, this Bill is a very, very simple thing. It is about regularizing a situation that has been allowed to exist since independence, with the effluxion of time that does not encompass or take into account the changing role of the defence force.

In 1962, post-independence, the role of the defence force was, as it was in the post-World War II era, to defend the State. After we had two world wars, the concept of an army and a defence force across the globe was that the army is there to defend the State against hostile attacks externally, i.e., war. That was the locus classicus determining the role and defining the role of the army. And it has to be located in its proper political, historical context. It came after and it is informed and shaped by the two world wars.

But, since 1945, after the end of the Second World War, society has evolved and countries in particular in the Commonwealth Caribbean have had to confront the fact that the defence force is a necessary tool for the State to have in its constitutional armory but that the defence force can play a greater and more meaningful role in the preservation of law and order.

That is why, when the hon. Prime Minister spoke, I do not think Members understood one of the more important points she made and it was this. The Defence Act, in all the territories in the Caribbean to which she referred, that Defence Act, when it was passed in the '60s and '70s, it had already enshrined in the law the role of the defence force to defend the interest of the State, to defend and protect the State, and that was the traditional role of the defence force.

But when you come in the period of 2000, four decades after, and you see that every country is amending the very same 40-year-old law to make provision for a more expanded and different or additional role and function of the defence force in their country, it means that the society has evolved and developed, the needs of the State and the people of the country have moved and developed and to move with the times, they had to amend those laws to cater for the new role and function of the army and the defence force personnel. That is why they amended it.

Mr. Samuel: A modern army.

Sen. The Hon. A. Ramlogan SC: There is no need to give soldiers protection when they are exercising police duties, when there is a state of emergency or you go to war. There is no need for that. Because from day one, from the genesis of the legislation, it was always within the contemplation of the Parliaments that if the country goes to war, if somebody tries to invade, or if you are under hostile attack, or if you declare a state of emergency, then the soldiers are protected and they can exercise police powers. That has always been the law.

So why then would you come 40 years later to amend that law, to introduce any additional protection, safeguards or duties? Why then? That is the question. Why is it that Parliaments all over the world are amending their Defence Act to cater for a different role to give additional protection and power to the soldiers? And the answer lies in the report that Justice Cross gave and that is, that the changing role and circumstances require a different approach and a different, attitude policy-wise to the defence force.

Mr. Speaker, in this country, we have had the advent of joint police and army patrols since the 1970 uprising. We had two states of emergencies and during that, '90s period, 1970—1972, when the soldiers were utilized and had the full powers of the police, for those two years we never heard about the killing machines “killing out” people. We never heard about that. In July 1990 and thereafter, last year during the state of emergency, we did not hear anything about killing machines.

Permit me to just illustrate the point by way of example, to point you to the Antigua legislation because my learned friend the Member for Diego Martin North/East and my learned friend from Point Fortin, the Member for Point Fortin, they both honed in on the Antigua legislation. Mr. Speaker, we had a power existing in the Defence Act of Antigua, that they will have the power to maintain public order, public safety and so on, the traditional role. The Member for Diego Martin North/East, echoed by the Member for Point Fortin, they all said: “Well look, that power is for a state of emergency. That power is for when you go to war.”

Mr. Speaker, in 2007, there was an amendment to that Act, and the amendment is an amendment to section 6 and the heading of section 6 is:

“Duties of Defence Force” in Antigua

and it reads as follows:

“The Governor General shall, on the advice of the Prime Minister, by proclamation, direct that the Antigua and Barbuda Defence Force or part thereof be employed—

- (a) in aid of and to support civil authorities in securing and maintaining public order and public safety;
- (b) to assist the civil authorities generally in granting relief in times of disaster, and
- (c) in other duties defined by the Prime Minister.”

They put their reins in the hands of the Prime Minister. We have not sought to do that here, but subsection (4) says this:

“Where a member of the Force is acting pursuant to directions...

(3) that member shall, while so acting, enjoy all the immunity, privileges and protection enjoyed by members of the Royal Police Force of Antigua and Barbuda.”

5.30 p.m.

Mr. Speaker, why would the Antiguan Parliament, in 2007, amend the law specifically to legislate for different duties? These are new duties that were not there before and the new duty is to act in aid and in support of civil authorities, like the police and other agencies, in securing and maintaining public order and public safety. Why would they want to do that? Why would they want to give them protection; to enjoy the immunity, privileges and protection like the police in Antigua? The answer is simple. They wish to give them that additional duty and power and that protection because the role of the defence force has been reviewed and changed, and that is the reality.

Now my learned friend, the Member for Diego Martin North/East, said—he harped on the fact, well, you know that this is a proclamation and he said it in his contribution—Member for Point Fortin echoed it today—that we are wrong in our interpretation of the Antiguan legislation that the soldiers are only allowed to go out there with the police officers during the states of emergency and so on, when there is a proclamation issued.

I took the liberty to just double-check to make 100 per cent sure. I called my colleague in Antigua, the Attorney General of Antigua, The Honourable Mr. Justice Simon QC and I asked him what happens and, Mr. Speaker, he said no.

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Outside of the state of emergency, outside of any period of war, the army now is doing joint patrols with the police and they are assisting law enforcement agencies and, as a result of that, they had to make these amendments to give the soldiers the legal protection like the police. That is happening as we speak. There is no state of emergency, no war and it is happening.

So when the Member for Diego Martin North/East stands up and misleads the House by saying that this could only happen when you have a state of emergency or the country is at war, I think that is being rather disingenuous. The position is quite the opposite. The purpose of the amendment was to expand the role and function of the defence force and to give it different protections because they are now acting outside of the period of a state of emergency. That, Mr. Speaker, is all this Bill is seeking to do.

There is a grave concern that since the Defence Act, from day one, was predicated on the assumption that the army's role and the defence force's role is to defend the State from hostile attack, that the powers given under that Act really are limited to defence of the State. In other words, it was said by the Member for Diego Martin North/East and others that you could only use the army in times of a state of emergency, as mentioned in the Constitution, or you can use the army when the country is under attack from hostile forces and so on.

Now, I do not think they understand what they are saying because, if that is correct, then how in God's name have we been asking soldiers to accompany police officers on joint police and army patrols? How? There is no difference because, according to them, you could only use them when the country is being invaded and at war or you have a state of emergency. That is according to them.

There is a grave concern because insofar as that doubt exists—and that Act is since 1962—Mr. Speaker, half a century has elapsed since we gained independence. Fifty years on, we are now trying to legislate, to review and reshape the role of the army in today's society, besieged by crime, and we are trying to do it in the proper way to give the protection of the law and they come [*Desk thumping*] to complain and object.

Mr. Speaker, that is all this is about. It is about removing the element of unfairness and discrimination that exists whereby two persons are going to face the same danger—one a police, one a soldier. One is clothed with the full protection and might of the law; the other, we say to him, "You have a citizen's arrest power", which is next to nothing. "They like the Ishmael Samad. You go

and take up a sledge hammer and knock down people gate.” That is what we are saying? How could that be fair? How could it be reasonable? How could it be equal and equitable?

Mr. Speaker, permit me to turn to the Bill. We have circulated a list of amendments and I hear my learned friend, the Member for Point Fortin, criticizing us for bringing these amendments and saying, you know, it shows that we are unprepared. Mr. Speaker, when the Government engages in dialogue with interest groups in the society, we make no apologies for that and we, in fact, take pride in that. [*Desk thumping*] We take pride in doing so because it means we are a Government that cares and that listens to the people.

They did not listen to the people when they complained about so much wastage and corruption and mismanagement and they paid a dear price for it. When, therefore, we take into account concerns that have been expressed as part of the law-making process, we see that as a good thing because the hon. Prime Minister’s mantra has always been to listen, listen, listen before she leads.

That is why, Mr. Speaker, the first thing we did is to come for a three-fifths majority. The view has been expressed that you do not need a special majority for this Bill. That view has been expressed. Others have said otherwise, and out of an abundance of caution we have come for a three-fifths majority.

The second thing is that we have put into the Bill that it will come into effect on a date to be proclaimed. The reason for that is because, since the soldiers have to be trained and the training is about three months, well the first batch will not be ready until the expiration of three months.

We then come to deal with the concern which, from day one, they raised, quite erroneously, that, “Well, look, yuh making soldiers into police”, and the Member for Diego Martin North/East, he used the term “killing machines” over and over. They have stood here and vilified and attacked the soldiers; vilified and attacked them in the most malicious way, branding them “killing machines”. These men and women of the defence force who stood up for our country in our darkest hour in 1990 and defended the State, they have stood up here and vilified them.

Mr. Speaker, they refused to read the simple plain English in the law before them. It says:

“When any unit of the Defence Force is charged...with the duty of assisting any member of the Police Service...”

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That is the first point. It is when they are on an exercise with the police and they are assisting the police. We did not stop there. We said, not just assisting, when you are:

“assisting any member of the Police Service in the maintenance of law and order and is engaged in so doing...”

So you must not just be called out by the police to assist, you must be engaged in so doing. What does that mean? That you are called out to assist and you are engaged in so doing. That means, Mr. Speaker, that you are there on an operation with the police, alongside them, providing support to the police.

Mr. Speaker, that was clear from day one and I do not understand why, in the face of that plain language, they have insisted on saying, Well, yuh know, de police and dem could go and do what they want and the soldiers could go and do what they want and the soldiers now would go on a rampage and so on.” Where is that coming from?

Then we said, Mr. Speaker—there was a concern expressed with respect to political control and the possibility of that. If soldiers—in every country, soldiers fall under the Executive. The commander-in-chief is the head of state, but the direction lies and resides in the Executive, in this country the Defence Council. So I thought, you know; yes it is a fair comment that if it is you are going to give them police powers, well when they are acting in that capacity then a politician should not be in charge.

So what did we do? We introduced a provision to remove that political control and to say that when they are acting in the performance of police duties, they will not be subject to the general directions or special directions of the Minister of National Security, notwithstanding any written law to the contrary. That is to meet the concern raised.

Mr. Speaker, concerns were expressed. Yesterday we met with a delegation from the Law Association, the President of the Law Association, Mr. Seenath Jairam SC and a delegation from the Criminal Bar Association, led by Miss Sophia Chote SC and we had a lengthy discussion and, Mr. Speaker, arising out of those discussions, we have proposed an amendment today to mandate the Chief of Defence Staff to make, within three months of the commencement of this legislation, standing orders to establish a code of conduct to govern soldiers when they are acting in the performance of police duties.

I want to say something. When I asked the defence force about this, they said, “You know, but AG we already have that, you know. Remember when you declared a state of emergency from 1970 onwards, we are clothed with police powers and we already have standing orders which govern us during that time, and those standing orders, they resemble what the police have in their standing orders and so on.”

So, Mr. Speaker, all the Chief of Defence Staff will do—and we put it in the law to give mental comfort—it was not necessary, but we have put it there to mandate him that he “shall within three months”; not “may”, but “shall” within three months make those standing orders. We have given him a power to make the standing orders and we have imposed a statutory duty for him to make those standing orders.

Now, questions were then raised about the practical administration of these things. Mr. Speaker, we have a tendency to sometimes raise problems and difficulties where none exist. You know, the joint police and army patrols have been in existence now for over a decade and we have had no problems. Yes, I accept competition for turf and so on, but you know the one success story has been that joint police and army patrol because the mistrust, the resentment, the little competition for turf; all of that have been worked out and a culture of a partnership between the army and the police has worked out itself nicely.

No one asked for the past 10 years, “Well, when dey detain somebody, what dey does do wit dem?” Nobody asked, “Well, who is the officer in charge of the soldier who he does take instruction from?” Nobody asked, “Well this killing, you want to precept soldiers, why yuh want to do that? Nobody asked these questions.” Why is that so? “Because de thing running smoothly because dey have an administrative arrangement in place. But dey say dey want to see it in black and white in law.” So what do we do?

We have proposed an amendment to circumscribe and ring-fence the powers of the soldiers to say that when they stop someone, when they detain them—obviously when they are on a joint exercise—when they stop them and they detain them, or they search them and they seize something from them, they must hand over that person or that item seized to the senior officer whom he is assisting. So the law is drafted on the assumption that you will be assisting a senior police officer; or, suppose that officer is shot, God forbid, and he is not there, or to take the person or the item seized to the nearest police station and cause to be recorded the circumstances occasioning the arrest.

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So in other words, when you reach the police station, the processing of the accused person or the suspect is done by the police. They will fingerprint him and they will take the report. They will lay the charges. They will interrogate or interview and then they will also be the virtual complainant in the court in the prosecution. So that was always the case. We have protected that to ensure that there is no blurring of the lines and that again is to appease the public concerns about that matter.

Mr. Speaker, when one looks, for example—but the idea that the defence force is limited and ought to be restricted to when the country is invaded by hostile elements or when there is a state of emergency, I think is rather unfortunate. It shows that the Opposition is not keeping and thinking with the times. It shows that they are completely out of sync with reality.

Mr. Speaker, this country is spending over \$1 billion per annum on the defence force—men and women who are patriotic and loyal to their country and who are willing to serve and are witnessing what is taking place on the ground. “They too live in this country; they too have wife and children; they too have an interest in seeing law and order preserved and maintained [*Desk thumping*] and they are willing to serve their country and the Opposition says we must not let them serve until somebody come to attack the country and invade we.”

I mean, how realistic and practical is that? It is fanciful, inherently incredible and totally irrational.

5.45 p.m.

Miss Cox: “Yuh start to shout?”

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, when one looks at the mission statement of the defence force, this is what it says, it is to:

“defend”—this is the mission statement of the defence force—“the sovereign good of The Republic of Trinidad and Tobago, contribute to the development of the national community and support the State in the fulfillment of its national and international objectives.”

It says to:

“Defend the Sovereign good of the Republic...”—and this is important. This is their mission statement—“...cooperate with and assist the civil power in maintaining law and order, assist the civil authorities in times of crisis or disaster...”—et cetera.

But they already understand that they have a duty to cooperate and assist with civil power in maintaining law and order. They already understand that, but we are here trying to tell them, “Do not do that.”

Hon. Member: They operate in the real world.

Sen. The Hon. A. Ramlogan SC: “Do not do that.” The defence force is operating in the real world in real time, but the PNM is in backward time and trying to tell them; “Hold back, hold back.” [*Desk thumping*]

You see, Mr. Speaker, the reality is, what we are seeking to do is simply to give a measure of protection to the soldiers and others. When the hon. Prime Minister, for example, spoke about the coast guard, I spoke to the head of the coast guard to ask about it, because in the Defence Act, when one looks at the provision very carefully, the powers given to the coast guard to stop, seize and search and so on, it is drafted on a template that is based on the coast guard pursuing someone on the ocean.

I actually asked the question pointedly. I said, “Well, listen, so if you are chasing someone, a drug smuggler who you suspect have arms and drugs, and he outruns you because he boat faster, and he reach de shore, what happens?” They said they are unsure of what their powers are and they are hesitant, because the law does not make it clear that they have police powers outside of the waters. So, Mr. Speaker, that is why the amendment captures the defence force. It is the army, the air guard and the coast guard.

Mr. Speaker, when we have joint patrols, it is not just on the ground, it is in the sea, it is in the air and it is on the land. So when a kidnap takes place, and the helicopter is above with a police officer and they are tracking the vehicle with the victim of the crime—they are tracking it—if the bandit turns around and fires a shot and hits the policeman in the chopper, what then are the powers of the air guard officers who are on that chopper? What are they to do? They are ordinary citizens. What are they to do?

We must give them protection. We are asking these men and women to risk life, limb and property. Every single day that they go out there, they are going to face the same danger and the same risk as police officers. We are asking them to stand shoulder to shoulder, side by side, but we are telling them: “We are only going to give the protection to the police.” How could that be right—

Hon. Member: Wrong!

Sen. The Hon. A. Ramlogan SC:—to ask people to step up to the plate to perform a job, but we are not going to give you the legal equipment and protection you require? That cannot be right, and this Government would not sanction and support that. [*Desk thumping*]

Mr. Speaker, when the Member for Port of Spain South spoke, they came down about SAUTT and they said—I think the Member for Diego Martin West said, and I quote—“We are converting the defence force into ‘soldier/police’ and this is going to lead to all sorts of problem and so on.” Mr. Speaker, when they were in power and they created SAUTT, which was predominated by soldiers, those soldiers were not there “training how to clean cobweb in house”, you know. They were there playing an active role in the investigation of crime. Let us understand that! But the investigation of crime is not the soldiers’ business; it is the business of the police. Under the Police Service Act, that is the business of the police.

You never passed any law to expand that, so that the soldiers could have the legal protection to participate in that police business, but you put them there. “They clever, yuh know! Dey keep harping that dey had ah senior policeman dey; we had ah senior policeman dey.” So you put one policeman, you put a thousand soldiers and you say, well it legal, because we ha one policeman.” How could that make sense? Really, how could that make sense?

You see, Mr. Speaker, the reality is, you know, the head of SAUTT was not from the police service. The head of SAUTT was not from the police service. So I ask the question: if you are part of an organization and the head of the organization is a brigadier and you are performing police duties, then what use is it to refer to the middle man and say. “We have ah police officer there and, fellas go report to him?” So, who does that police officer report to in turn? He is part of an organization headed by a soldier, “but he go report to who?” And he is part of that organization?

You see, they have a problem, because you see in the Opposition, in the PNM, they have more than one leader. [*Desk thumping*] So they think that you could report to one, two and three [*Desk thumping*] because they have three leaders, you know, and it mushrooms, it multiplies. You have the faction led by the Member for Diego Martin North/East, Mr. Imbert; you have the faction led by the hon. Leader of the Opposition, the Member for Diego Martin West; you have the faction led by the Member for Diego Martin Central—

Hon. Member: Rubbish!

Sen. The Hon. A. Ramlogan SC:—and then you have the new faction “Ramley”, the latest faction.

Miss Cox: Mr. Speaker—

Miss Hospedales: That is rubbish! [*Crosstalk*]

Mr. Roberts: “Jump up with Ramley!”

Miss Cox: Mr. Speaker, point of order, 36(1), what is the relevance of all of this to the Bill? [*Crosstalk*]

Mr. Speaker: Could you link those points? I want to get some clarification.

Sen. The Hon. A. Ramlogan SC: You see, Mr. Speaker, the point is, if you come from an organization where there is a crisis in leadership because you have multiple leaders, then you could stand here and justify that SAUTT had two leaders [*Desk thumping*] and because you had one police and one soldier at the head, well, that is okay. [*Desk thumping*] It is a multiple-leadership crisis that exists in the factious PNM that is causing this kind of illogical reasoning. [*Desk thumping*] Deduction!

Hon. Member: You have to sort that out.

Sen. The Hon. A. Ramlogan SC: And you have to sort that leadership crisis out, and SAUTT cannot help you sort it out.

Miss Mc Donald: Get out of PNM business!

Sen. The Hon. A. Ramlogan SC: When I hear that—when we celebrated International Women’s Day one week ago, and I could hear the Member for Point Fortin stand and start a contribution on a serious Bill like this in a fit of jealous rage to speak about the Prime Minister in the company of the Attorney General of the United States of America, and she stands here in a fit of envy and jealousy to say, “Well, I saw her beaming”—[*Interruption*]

Miss Cox: The fact is you should have talked about Obama first.

Sen. The Hon. A. Ramlogan SC:—well, you know, I would much rather that my Prime Minister beam, look beautiful and look good, but “eh grab no man”.

Hon. Member: Oh! [*Laughter and crosstalk*]

Sen. The Hon. A. Ramlogan SC: And, you see, the Member for Point Fortin stood here, and she has the gall—

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Miss Cox: Mr. Speaker, Mr. Speaker, on a point of order, 36(5). What type of language is that? [*Crosstalk*]

Mr. Speaker: I think that the eloquence—let us be a little more eloquent, please, please, please. [*Laughter and crosstalk*]

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, you see, it is not “grab”, it is “hug”. It is “hug”, so the eloquence is there.

Dr. Moonilal: Embrace!

Sen. The Hon. A. Ramlogan SC: But, you see, the point is this.

Dr. Moonilal: Embrace!

Hon. Member: Snuggle! [*Laughter*]

Sen. The Hon. A. Ramlogan SC: You see, the Member for Point Fortin, we let her have her say, but the reality is, here is a former Minister of Foreign Affairs, who has the audacity to speak about tact and diplomacy, who is of international repute and fame for grabbing the President of the United States of America and making a—[*Interruption*]

Miss Cox: Mr. Speaker, on a point of order.

Sen. The Hon. A. Ramlogan SC: And, Mr. Speaker, “when we see she grabbing the—[*Crosstalk*]

Miss Mc Donald: Sit down!

Miss Cox: Mr. Speaker, 36(1), what is the relevance to the Bill? This Bill is not about the Member for Point Fortin. [*Desk thumping and crosstalk*]

Mr. Speaker: Could you link those things, so that at least there will be relevance?

Sen. The Hon. A. Ramlogan SC: Yes, Mr. Speaker. You see, Mr. Speaker, what I am trying to do is to demonstrate and embrace all the points that have been made in the debate and, in particular, I am trying to embrace the points made by the Member for Point Fortin. [*Desk thumping*] You see, she hogged the spotlight in this Parliament [*Laughter*] for an hour and a half.

Miss Cox: Mr. Speaker, Mr. Speaker, on a point of order again, 36 (1), what is the relevance? And this debate is not about the Member for Point Fortin. He needs to stay out of “woman” business. [*Desk thumping*]

Mr. Speaker: All right, all right. Let us—I think the temperature is rising.

Miss Mc Donald: That is what happens when you bring such a—

Mr. Speaker: Yes, Member for Port of Spain South, please, let us have some peace. Attorney General, would you be kind enough to link your points? I know that you are referring to what the Member for Point Fortin had said earlier, but could you link your points so that you would not border on irrelevance? Please. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC: You see—

Mr. Roberts: She put her fingers around Obama. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC: You see, Mr. Speaker, the international reputation and image of the country are very important. I, as Attorney General, I am head of the Central Authority of this country, and the international image and reputation of this country—because we are seeking to partner in the fight against crime with international law enforcement agencies such as the US Department of Justice and the British Serious Crime Agency—when incidents like that happen, it is an international embarrassment, and it impacts on our ability to stand with credibility as a country to negotiate treaties and seek assistance from countries. Because when you stand to deal with law enforcement agencies from international countries, and they refer to your country, “Oh, yes, yes, I remember, yes, yes, yes. That is the country where the hon. Minister had grabbed the President”, it is a very touchy matter. [*Laughter*]

Hon. Member: “You doh feel good about dat.”

Miss Cox: Mr. Speaker, on a point of order—

Sen. The Hon. A. Ramlogan SC: They made the point that the army—

Miss Cox: On a point of order, 36(5), the Member is imputing improper motives—

Mr. Sharma: Nonsense!

Miss Cox:—to the Member for Point Fortin. [*Interruption*] He is. He said she grabbed the President.

Mr. Speaker: I do not think it is improper in the strict context, but I think that you have made your point. I think he can move on now, please. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC: Now, Mr. Speaker—[*Laughter*]

Miss Cox: “Leh we hear ’bout goats now!”

Sen. The Hon. A. Ramlogan SC:—the Member for Diego Martin North/East—[*Interruption*]

Hon. Member: “Yuh hear! Yuh hear!”

Miss Mc Donald: “The goats and dem tottering!”

Hon. Member: “Leh she hear 'bout goats!”

Sen. The Hon. A. Ramlogan SC: The Member for Diego Martin North/East says, the army is trained to kill and he says, you know, you cannot unleash these killing machines on the population.

You know, when the hon. Prime Minister referred to the role the army has been playing in this country, these so-called killing machines that they are branding soldiers as—they are branding soldiers as “killing machines”—these are the same killing machines that are running the Civilian Conservation Corps Programme interacting with the youths between the ages of 18 and 25. These are the same killing machines that we turn to, to help us with the youths in the MYPART programme, in the MILAT and HYPE Programmes; the same killing machines. So, when they say that, they must ask themselves how realistic and credible are they being? If these men are trained to kill and they are such intractable killing machines, then why are you allowing them to interact with youths in the country?

You know, Mr. Speaker, a soldier in Trinidad and Tobago is a creature and product of Trinidad and Tobago, our society, and a Trinbagonian has its own personal, unique, cultural stamp on anything and everything, and it is different to the rest of the world. Our soldiers go into schools and help them to repair their sport grounds; they help teach the children. Our soldiers are going to the elderly homes and they paint and renovate the nursing homes for the old people. These are not killing—to say that they are killing machines and brand them like that, I think it is rather unfortunate. It is a malicious attack on the integrity of the army and the defence force.

6.00 p.m.

Hon. Member: [*Inaudible*]*—human dignity.*

Hon. Member: I agree.

Sen. The Hon. A. Ramlogan SC: It is—what they are—the image. I mean, one person said, “Mr. Ramlogan, dey doh know I have a wife and children? Dey branding me like—how could ah Member of Parliament say I am a killing

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machine?” He said, “I am a citizen of this country. My children go to school in this country”. And then he asked the more important question, he said, “Mr. Ramlogan, could you ask for me please, ask them what is it—the description and label they have for the criminals.” He said, “Ask the Member for Diego Martin North/East what is the description and the label he has for the criminals who are terrorizing the country?” I “eh” hear not a Member, not a single Member from the Opposition Bench mention the word “killing machine” in relation to the criminals and the bandits that are terrorizing the poor people, [*Desk thumping*] but they have the audacity to call the soldiers “killing machines”.

Mr. Indarsingh: Well said! Well said!

Sen. The Hon. A. Ramlogan SC: Well I want to say today that the soldiers in this country and the members of the defence force, as indeed the members of the Trinidad and Tobago Police Service who have been serving this country and providing yeoman service to us, neither of them, none of them are killing machines. They are all faithful, loyal, patriotic, decent, [*Desk thumping*] hard-working men and women who are here to serve the State of the Republic of Trinidad and Tobago. [*Desk thumping*] This Government takes objection to the branding and the vilification of the army in that manner.

Mr. Speaker, the point was made, I think by the Member for Port of Spain South, that, well look, “If you want to have more police because you say there is a manpower shortage, well why you do not simply hire more police?” At first it sounds like a very good point.

Miss Mc Donald: I said, “Do a manpower audit”.

Sen. The Hon. A. Ramlogan SC: You need a manpower audit, but the point is—[*Interruption*]

Hon. Member: Oooooooooo! [*Laughter, desk thumping and crosstalk*]

Miss Mc. Donald: No, take it back!

Mr. Speaker: Member!

Miss Mc. Donald: Take it back right now!

Mr. Speaker: Member! Member!

Miss Mc. Donald: Take it back! The two of us need the same thing!

Mr. Speaker: Port of Spain South! Port of Spain South! Port of Spain South!

Miss Mc. Donald: Take it back! We need the same thing!

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Mr. Speaker: “Yeah, yeah, yeah,” Member for Port of Spain South. Withdraw that statement and apologize, please; and apologize, please.

Sen. The Hon. A Ramlogan SC: Mr. Speaker, I apologize for saying that the PNM needs a manpower audit.

Miss Mc Donald: No! No! No!

Mr. Speaker: No, no, no, no, no, no; wait, wait. AG, take a seat. AG, we cannot behave in that way. You have made a categorical statement—
[*Interruption*]

Miss Mc Donald: He false!

Mr. Speaker: Member for Port of Spain South, I am on my legs. I would like you to withdraw the statement and apologize, please.

Sen. The Hon. A. Ramlogan SC: I withdraw the statement and apologize. [*Desk thumping*] Mr. Speaker, the point is, it is a very specious and deceptive argument to say, “Look, if you need more police officers you could simply go out there and hire police officers”, and to say that is the solution. That is not the solution for this reason.

Mr. Speaker, whether you go out there and you hire more police officers or not, the fact of the matter remains that you will still be spending \$1 billion on the defence force without being able to utilize them a single day because you have all these trained men and women waiting for a war that may not come and may never happen.

Hon. Member: Hopefully it never happens.

Sen. The Hon. A. Ramlogan SC: So the billion dollars of taxpayers’ money that you are investing to spend on the defence force, whether you hire more police officers or not, that money, that investment is one that has to be put to good use. So that is why, Mr. Speaker, I say that perhaps that argument about a manpower audit is perhaps resident elsewhere.

Mr. Speaker, if you do a manpower audit, what it will show us is that there is a need for more police officers but there is also perhaps a need for more quality. You see, the defence force personnel are well-trained. They are already physically fit and they are well-trained, so that it is not just a question of quantity. You see, they approach things from a perspective of quantity, we approach it from a perspective of quality, [*Desk thumping*] and we say that by adding to the stock of

the police service by relying on the defence force we will give you a quality increase in manpower, an extra pair of strong arms and strong legs to take the fight to the criminals. [*Desk thumping*]

The next point made, Mr. Speaker, was that the Commissioner of Police has the power to appoint a specialist, and they cited section 22 of the Police Service Act, which gives the Commissioner of Police the power to contract people. Mr. Speaker, that section 22(3) says that the Commissioner may appoint on contract any person for a specified period who is not a police officer. That section which speaks to qualifications, experience, skills and merit of a person and so on, that section is not intended to allow the police to supplement the manpower requirements of the police service. That really is for, you know, a situation where the police service does not have a particular expertise in-house and it has to contract a specialist, that you will hire the specialist and they will provide the service. That is what the section is for.

Now, by making that as a proposal and a suggestion—I mean, the Member for Point Fortin said, “We made plenty suggestions.” Yes, you did, but this is the kind of suggestion they are making—it makes no sense. They want us to misuse and abuse a provision in the law that is designed for the Commissioner of Police to hire specialists to fill a void where you do not have the expertise or talent in-house in the police service, and they say they must use that.

Mr. Speaker: Hon. Members, the speaking time of the hon. Attorney General has expired.

Motion made: That the hon. Minister’s speaking time be extended by 30 minutes. [*Hon. A. Roberts*]

Question put and agreed to.

Mr. Speaker: You may continue, hon. Attorney General.

Sen. The Hon. A. Ramlogan SC: Thank you very much.

Hon. Roberts: Thank the Opposition.

Sen. The Hon. A. Ramlogan SC: “Yeah.” Mr. Speaker, I would like to thank my colleagues from the Opposition Bench for supporting that extension of time, and, in particular, my colleague, the Member for Port of Spain South.

Miss Mc Donald: Leave me alone. [*Laughter*]

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, the point is, that provision to hire contract officers really was not intended as an open-ended provision to

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bringing en masse manpower to supplement the manpower requirements in the police service.

Mr. Speaker, the next point that I will deal with is a point made by the Member for Laventille West. The point was made that if you give these soldiers, or the members of the defence force, police powers when they are assisting police officers that that will demoralize the police service. I do not understand how. Mr. Speaker, I do not understand the logic and the rationale in saying that a police officer—we are trying to tell a police officer we are going to give you high quality manpower to back you up when you are on a raid to protect your life, and we are going to give you a trained man to back you up when you are on those raids and that police officer turn around and say, “Well, boy, I feel real demoralize hearing that, you know. I feel real demoralize hearing that.” I mean, where is the logic in that?

It is arrant nonsense that you would suggest that the police service would become demoralized and demotivated because we are going to provide them with extra pairs of strong arms and legs from highly trained special men and women in the army, and that they will become demoralized. I will tell you one thing, Mr. Speaker. It is only a particular kind of officer who will become demoralized by bringing in persons from the army and defence force to watch over them, to be alongside them and to participate in a joint exercise. It is “only a particular kinda officer who go become demoralize with that”, and I say no more on that. But I think by and large, the Trinidad and Tobago Police Service, the membership on the ground, they will understand that this is for their benefit, [*Desk thumping*] to their advantage and for their enhanced and better protection—[*Interruption*]

Hon. Member: The vast majority.

Sen. The Hon. A. Ramlogan SC:—and that the vast majority will support it. Mr. Speaker, you know the Inter-Agency Task Force has been in operation for quite some time now and there have been no complaints from police officers. They have not complained about being demotivated, dejected and demoralized. You see, an issue was raised about the training for the soldiers, and we have said they will receive the same training as the SRPs.

Mr. Speaker, I want to ask a question. You know, when, originally, the debate started a lot of noise was made about precepting soldiers and so on, and I do not think people understood, really, that this Bill is not really about precepting the soldiers, you know. It is about giving them protection when they are exercising

police duties in assisting the police. But I ask the question—people raised it as though precepting means you are giving the soldier a gun when he is going on the raid, and that is something to fear because he is a killing machine.

Mr. Speaker, when you last encountered a joint police and army patrol at a roadblock and so on, is it not already the case that the soldiers carry a weapon?

Hon. Persad-Bissessar SC: Yes.

Sen. The Hon. A. Ramlogan SC: They do. “How much people they kill, this killing machine—the fiction of the killing machine?” “I mean, I do not know if the Member for Diego Martin North/East watch too much a ole Rambo movie or something and come here.” You know what I mean? “Buh something wrong.”

Hon. Member: *Django Unchained*.

Sen. The Hon. A. Ramlogan SC: “Yes, probably he saw the *Django Unchained*—[*Interruption*]

Hon. Member: Video game!

Sen. The Hon. A. Ramlogan SC:—or he playing too much video game in the night. Instead a blogging, he should play less video game and blog.” But the reality is, the soldiers are already legally entitled to carry arms and ammunition, and they do so when they accompany police officers on joint police exercises [*Crosstalk*] so that, you know, that is already there.

Now, Mr. Speaker, the fact of the matter is, when they go on these joint exercises, there is a lacuna in the law, there is a grave omission, a grey area, and that is, what is the legal status of the soldier? What is the legal status of the man in the helicopter from the air guard when they are flying over a marijuana field and people are shooting at them? What is the status of the coast guard when the man runs ashore, hides behind a tree and fires at them? These are real issues and we have placed members of the defence force in this country in a legal twilight zone for far too long, and this Bill is about shedding some light and providing some legal illumination on the role [*Desk thumping*] and the function of the soldiers so that they will get some protection.

Now, I come to the issue of the liability. So much talk about the liability of soldiers and, you know, they would escape scot-free and so on, the hon. Prime Minister was at pains to point out, you know, Mr. Speaker, for there to be an ouster of the jurisdiction of the Supreme Court, there needs to be plain statutory language to say that the High Court shall not have jurisdiction X, Y and Z. So, for

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example, you have an ouster of the court's jurisdiction in relation to the presidential immunity in the Constitution, or in decisions made by the service commission when we had an ouster clause in the Constitution, but you need plain, clear, direct and specific language.

So I do not understand how the Member for Diego Martin North/East could come and say that the laws of the country do not apply to the soldiers, because they have their own system for justice. They do have a system for military justice, but that does not operate to the exclusion of the courts. That is why, routinely the State is sued if there is misconduct on the part of police officers, soldiers, licensing officers, immigration officers, forest rangers, litter wardens; you name it.

Anyone who has police duties and powers, if at any point in time they misuse those powers or abuse the rights of the citizen then, Mr. Speaker, the State is sued. Mr. Speaker, that will not change, nothing changes that, and if they violate the criminal code then, likewise, they will be prosecuted. So permit me to put that to rest once and for all.

Mr. Speaker, we then heard from the hon. Member for Point Fortin, and this was perhaps a doubled-edge sword in her contribution. The Member for Point Fortin said that we dismantled SAUTT, and I am quoting now. She said we dismantled SAUTT and sent everyone home from SAUTT. She does not know whether this had anything to do with their political affiliation.

6.15 p.m.

I want to ask something: if the allegation is that we sent home everybody from SAUTT because of a political affiliation, I wonder then what does that say for them in how they selected the men and women to form SAUTT based on what political affiliation? [*Desk thumping*] [*Crosstalk*]

Hon. Member: Good point!

Sen. The Hon. A. Ramlogan SC: She says we sent home everybody, which is not true, and I will come to that. "Yuh send home everybody"—

Mr. Speaker: Member for Point Fortin.

Sen. The Hon. A. Ramlogan SC: The Member for Point Fortin said we sent home everybody and it is because—and she wonders—she does know whether it had to do with their political affiliation. Well, why would you wonder about that? "Is it that you have something lurking in the back of your mind, something

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bothering yuh and troubling your conscience because a how you selected people?” Today I ask: did you all select people based on political affiliation to go there?

Mrs. Gopee-Scoon: I am denying it categorically.

Sen. The Hon. A. Ramlogan SC: You see, Mr. Speaker, I will tell you what the facts are. [*Crosstalk*] When SAUTT was dismantled, those—the first thing that we did was to save over a million dollars a month by sending back the retirees to Britain; send them back—the first thing we did. [*Crosstalk*]

The second we did was to announce—with the money we saved, the million dollars a month, we saved—we announced the special duty allowance for police officers of \$1,000 a month. [*Desk thumping*] We took the money that they were paying the retired British officers, the retirees and pensioners who came here—

Hon. Member: On a joyride.

Sen. The Hon. A. Ramlogan SC:—on a joyride, on a little vacation in the Caribbean, we took that million dollars and we gave it to the police officers with a \$1,000 allowance. [*Crosstalk*]

The next thing we did is, all serving police officers—“nobody eh get fire—they resumed duty back in the police service where they belonged, where they “shudda never be removed from. Yuh cyar have two.” Then all serving members of the defence force, all the soldiers, we returned them back to the defence force.” That is what we did.

Others who would have been on contract, if their contracts came to an end, and the agency came to an end, so be it, but those who were serving soldiers and police officers, without fail, they were returned to their agencies to resume duties.

Now, Mr. Speaker, the Member for Point Fortin said it is dangerous to give the soldiers, police powers of arrest. I ask the question, you know, they speak about the danger in giving the soldiers police powers of arrest, “but, you know, I aint hear nobody say nuttin” about the dangers faced by the soldier when we send him out there without legal protection. “I hearing about the dangers in giving the soldiers police powers, but I aint hearing nobody talking ’bout the dangers faced by the soldiers when they go out there, neck and neck, shoulder to shoulder, alongside the police to face de bandit dem.”

You see, Mr. Speaker, let us look at some examples, and these are real life situations. Imagine they go on a raid to execute a search warrant to search for

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arms and ammunition, and the soldiers are outside, the police go inside, and the soldiers see someone sneaking out of the building. You know, the soldier in a case like that, he cannot stop that man, you know. He cannot stop him, he cannot search him, he cannot do “nutten”. The man may very well have the drugs “under he jersey”, but he cannot stop him.

I want to make that point clear. The soldier has no legal power to stop him. The joint police exercise, the whole operation, is being compromised before his very eyes, but he cannot stop it. Why? Because he has no power to stop, search, arrest, detain, and most importantly, he has no power to act on the basis of reasonable suspicion. Only the police in this country can act on the basis of reasonable suspicion. “The soldier standing up dey, he have he gun, he reasonably suspect that that fella rushing out de back door with two market bag in he hand”—

Hon. Member: And a gun.

Sen. The Hon. A. Ramlogan SC:—“and it have illegal things inside there, but he cannot act on the basis of that reasonable suspicion.” Why is the suspicion reasonable? Because they came to execute a search warrant and the police are inside the house searching; so it is a reasonable suspicion. “De man walking quick, heading for he car, ready to bounce starter and move”, and the soldiers have to stand there, they cannot stop them. That is one example. [*Crosstalk*]

“If the soldier hear the police officer cry out, ‘help’, inside the house, and he see a man walking out fast, he cyar stop him because all they have is a normal citizen’s power of arrest.” And you know what the citizen’s power of arrest is? I will come to it, you know—is really and truly a smoking gun principle. “If you get ketch red-handed while the crime is in the process of being committed in front yuh eye, underneath yuh nose”—

Hon. Member: Is a firing gun, not a smoking gun.

Sen. The Hon. A. Ramlogan SC:—is a firing gun, smoking gun right there, it is only then you have a power of citizen’s arrest. The crime must have already been committed—[*Interruption*]

Hon. Member: “In front yuh eye.”

Sen. The Hon. A. Ramlogan SC:—“in front yuh eye” or is in the process of being committed, and that is when you could make an arrest.

So the poor soldier stand up outside, he hear the gun bullets go off, he hear the police call for help, fella rushing out, but wha he go do?" That is the real situation. So that is why this Bill is necessary, to let the soldier stop them and seize the gun and so on. [*Crosstalk*]

Let me give you another—I spoke to a couple police officers and they gave me some real life examples. One police officer told me, he said, "Look, you are on the road conducting a roadblock and a soldier a little way off who is providing a little backup, sees a vehicle turning off. The vehicle "take a U-turn in de middle a de road, fast. This happens when you have a roadblock and traffic pile up and "fellas doh have dey licence, insurance or dey have something in de trunk. They making a U-turn, busy, to spin around. So the soldier seeing that, he know in he mind, he suspect that that fella aint want de police to ketch up with him. He have something to hide." But that is his reasonable suspicion, but it gives him no legal foundation to act.

So he could do nothing about it, and the police telling me that they wished that the soldiers and "dem" could get that power so they could stop that—say, "You, stop there," because the police officers are in front asking for your licence and insurance and so on, and the soldiers are there on the side where the traffic is backed up. So we are losing precious opportunity to catch criminals because of the impotent position we put the soldiers in.

You see, Mr. Speaker, if for example, they have a roadblock—the soldier, the officer gave me another example—he say, "We would have a roadblock, and when the traffic piles up, the fellas who coming from the opposite direction, they blinking dey light. If they are seeing fellas in de line, they winding up glass, "Aye, police, police, police, police, police, slow down, slow down." Now, the soldier is seeing somebody doing that—he is seeing somebody doing that—but whilst a police officer could arrest the suspect for obstructing police officers in the execution of their duty, the soldier can do no such thing because it is a summary offence. He can do nothing. So, your road blocks are being compromised because of that.

You see, Mr. Speaker, if a police officer shouts to a soldier, "Look that person running away there, stop him, stop him", if he shouts that to his colleague, you know the soldier "cyar" really stop him, he cannot. Why? Unless the soldier determines that that person has committed an arrestable offence, like murder or where the penalty is five years or more; that is an arrestable offence. He could only arrest on the basis—only the police, sorry, could arrest on the basis that you have reasonable suspicion, not the soldier. The soldier could suspect that the

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“police telling him, stop that fella, because he commit a crime”. The soldier could have that suspicion and he could want to stop him, but the soldier did not see the crime and therefore he cannot invoke his citizen’s powers of arrest. So he “cyar” stop him. He cannot stop him.

So these are the raw, harsh realities on the ground. This is the unvarnished truth. These are the incontrovertible facts that we are facing in Trinidad and Tobago, and we are trying to fix that, and people are talking about soldiers being killing machines and all sorts of nonsense.

Mr. Speaker, we are sending mixed messages. The Opposition in their contribution, they send mixed messages. Some people are not sure whether they are on the side of the bandit or they are on the side of the law enforcement agencies.

Hon. Member: “We sure.”

Sen. The Hon. A. Ramlogan SC: We are sure on the Government side where we stand. We stand on the side of law and order in this country. [*Desk thumping*] We stand on the side of the majority of silent, decent, hard-working, law-abiding citizens in this country, and we must give them the kind of protection for life, limb and property that the Constitution of this country guarantees to them.

How can we ask about soldiers being killing machines and brand them like that, when we do not ask the same thing for the officers in the private security industry? So we are saying—today I ask the Opposition, what you are saying is that you trust a private security guard more than you trust the members of Trinidad and Tobago Defence Force? Imagine that! A private security guard who undergoes no training in comparison to a soldier in the army, who carries a gun and is precepted to carry a gun, “yuh aint sure what kind a training they have”—
[*Interruption*]

Mr. Ramadhar: He has taken an oath to his country.

Hon. Member: None.

Sen. The Hon. A. Ramlogan SC:—and has taken no oath to serve his country and to serve the State and people of this country, he has taken no such oath, and the Opposition is saying that man must be respected more than the soldier.

He is not a killing machine, but the soldier is; on what basis? Where is the empirical evidence and data to suggest that he is a killing machine? You see, Mr. Speaker, it is simply not logical. You see, Mr. Speaker, the reality is, citizens

require a greater presence by law enforcement agencies so that they can conduct their business and their day-to-day lives in relative comfort and peace and security.

Mr. Speaker, the crux of the protection that we will give to police officers is that power that police officers have to act on reasonable suspicion to stop, search, seize, but all along bear in mind, this is being given to soldiers or to members of the defence force when they are engaged and called upon by the police and called out to serve alongside them, with them. In other words, the role of the defence force is ancillary and subsidiary to that of the police service. Let me repeat that. The police service will continue to lead the way. They will continue to be in charge, but the role of the defence force is to provide reinforcement, to complement their efforts and to provide ancillary support. Theirs is, subsidiary role when they are out on duty.

Now, Mr. Speaker, the powers—so that we understand this clearly, I want to just touch briefly on what are the powers of a private citizen to make an arrest. The powers of a private citizen to make an arrest are firstly, one, at common law in respect of a breach of the peace.

Two, section 3 of the Criminal Law Act which says that you can arrest someone who is or who you suspect is “in the act of committing an arrestable offence”—who is or “yuh” suspect is in the act of committing an arrestable offence or alternatively where the arrestable offence has been committed, past tense, then they could arrest.

Now, Mr. Speaker, the classical definition for that is an act done or threatened to be done which either actually harms a person or, in his presence, his property, one which is likely to cause harm or which puts someone in fear of such harm being done. That is the kind of situation that the citizen can invoke his power of arrest.

The police, on the other hand, they have all the powers of summary arrest without warrant; and these powers are, one, in respect of arrestable offences; two, in respect of summary offences, and three, under the Police Act. They can act on the basis that they have a reasonable cause or a reasonable suspicion and that triggers their police powers to stop, search, seize, detain and so forth.

So, Mr. Speaker, the reality is, however you cut it, however you dissect it, however you twist it or shape it, what we are seeking to do is simply, when police are asking soldiers to come and give them reinforcement and back-up support, we must give the soldiers the protection of the law, so that they will be able to

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manfully and bravely and courageously go forward there, in the interest of protecting the country, protecting the citizens, they can actually stand up and be proud soldiers, knowing that the Parliament of this country and the Government of this country believe in them and we have therefore given them the legal authority they need to actually stand shoulder to shoulder and fight the criminals. That is what this is about.

6.30 p.m.

Now, I heard the Member for Point Fortin raise all sorts of extraneous matters. I do not propose to dignify them with a response beyond saying and confirming that the members of the Chief Parliamentary Counsel's office were involved in drafting this legislation, they are here in the Parliament today and they have been here with us. The Chief Parliamentary Counsel, Mr. Ian Mc Intyre SC, up to 4.00 this morning was working on this draft legislation together with myself—*[Interruption]* the Chairman of the Law Reform Commission—and we have been working together on drafting this law. Mr. Speaker, I do not know—

Mrs. Gopee-Scoon: It should have been done before.

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, could I have some protection? The Member for Point Fortin—

Mr. Speaker: Member for Point Fortin, please! Continue, hon. Attorney General.

Sen. The Hon. A. Ramlogan SC: Yes, I am grateful, Sir. The Member for Point Fortin prefaced her comments each time by saying, “My constituents from Point Fortin do not want this. My constituents from Point Fortin asked me to convey this and convey that.”

You know what I remembered, Mr. Speaker? I remembered when the *Sunday Express* had a people meter poll where they would go into people's constituencies and they will ask about the Member of Parliament. When they did the people meter poll for Point Fortin, the people they interviewed from Point Fortin say, “I eh know when last I see da man, Mr. Scoon, nah. I eh know when last ah see da man come down here, because that man—*[Desk thumping and laughter]*—he living Westmoorings, and I cyar tell yuh when last ah see him in Point Fortin.” *[Laughter]* So I want to place on record that there is a serious question mark about the credibility of that statement that the constituents of Point Fortin are using her to voice their concerns in the Parliament. *[Crosstalk]* You see?

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When she speaks glibly, she speaks about crime and says, “You know, we do not want to fight crime” and so on, Mr. Speaker, there are many crimes, and we all know the broken window theory is about fixing crime; small, medium and large, and I want to say, Mr. Speaker, the crime of squatting is a very important crime.

Hon. Member: “Oh Lord.”

Sen. The Hon. A. Ramlogan SC: When you squat on State property and you remain there illegally and in unlawful occupation of State property and you deny other public officials the right to use and enjoy that property, Mr. Speaker, that is a crime. [*Desk thumping*] [*Crosstalk*]

Miss Cox: Mr. Speaker, on a point of order, Standing Order 36(1). What is the relevance of squatting to the Bill, please? [*Desk thumping and crosstalk*]

Mr. Speaker: Link your points!

Sen. The Hon. A. Ramlogan SC: Yes. You see, Mr. Speaker, if there are citizens in this country, no matter how high they may be, whether they are former Ministers or whatever, in the Opposition or the Government, if they arrogate unto themselves the right to appropriate State property and illegally squat there, with this law, the soldiers will be able to accompany the police. [*Desk thumping, laughter and crosstalk*]

The soldiers would now be able to accompany the police in a joint operation to be able to put them out and tell them, “You cannot stay here. You are illegally occupying State property. Get out”; whoever that might be. [*Desk thumping*] Because we have a serious problem in this country with people grabbing State land and State property, large tracts of land.

Hon. Member: “Dey grabbing.”

Sen. The Hon. A. Ramlogan SC: Mr. Speaker, some criminals have resorted to taking land, sometimes land and building, and they are grabbing it and hogging it for themselves. [*Desk thumping and laughter*] There is a serious problem in this country with persons of ill repute who want to hog State lands and hog State buildings, [*Interruption*] and that kind of mad scrambling and hogging and grabbing, undignified as it is, unbecoming of former Ministers or any citizen, is not right. And therefore, with this Bill we will be able to send the soldiers together with the police to put an end to that kind of nonsense. [*Desk thumping and laughter*]

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Mrs. Gopee-Scoon: That is desperation. That is desperation. “Man, talk about your Bill, nah.” Desperation, I beg to move. [*Laughter and crosstalk*]

Sen. The Hon. A. Ramlogan SC: You see, Mr. Speaker—[*Crosstalk*—I want to place on record that in the case of—[*Crosstalk*—I want to say for the record that in the case of those criminals who feel they could arrogate unto themselves the right to grab State property, we will beg you to move, but if you do not move, [*Desk thumping and laughter*] we will come and send the law enforcement authorities after you. [*Interruption*] You see some people—I am hearing murmurs of, “beg to move”. You did not beg to move, you begged to stay.

Mr. Speaker, I want to end where I started, to say that the most supreme and sacred law of this land is the Constitution of the Republic of Trinidad and Tobago, and the very first, fundamental human right that that Constitution guarantees to each and every citizen is the right to life, the right to enjoy your property, the right to liberty and the right to enjoy your property and security of the person; life, liberty, security of the person and the right to enjoy your property, and for those rights to have any meaning from the State, for that social pact between the State and its citizens to have life and meaning, to respect the sanctity of that, we therefore, Mr. Speaker, must pass laws to take tough measures to ensure that we preserve and maintain law and order to protect the vast majority of decent, hard-working, law-abiding citizens who have been terrorized by the criminal elements. This will provide us with the force that we need to join the army and the police so that we will take the fight against crime to the criminals and we will conquer and we will prevail.

Mr. Speaker, I beg to move. [*Desk thumping*]

Miss Mc Donald: That is the kind of behaviour—[*Inaudible*]

Mr. Speaker: Member for Port of Spain South, please, please, please. I am on my legs.

Question put and agreed to.

Bill according read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: We got a subsequent list which superseded all the previous listings that we got. So, Members, we are dealing with the final list that was

circulated which reads: “This list supersedes all previous lists”, so this is the only one that is properly before us, this honourable House. [*Holds up list*]

Miss Mc Donald: [*Inaudible*]

Mr. Chairman: That matter has been addressed, please. Members, we are now in committee and are you ready? Yes, let us go.

Clause 1.

Question proposed: That clause 1 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, there is an amendment to clause 1 as circulated: “Delete the words ‘Defence (Amendment)’ and substitute the words ‘Miscellaneous Provisions (Defence and Police Complaints)’.”

Question put and agreed to.

Clause 1, as amended, ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 2 be amended as circulated:

- “A. In the *chapeau*, insert the word ‘Defence’ before the word ‘Act’.
- B. Delete the proposed subclause (3) and substitute the following subclauses:
 - ‘(2A) When any unit of the Defence Force is charged under subsection (2) with the duty of assisting any member of the Police Service in the maintenance of law and order and is engaged in so doing, the members of the unit shall —
 - (a) have the same powers, authorities, privileges and immunities as are given by law to members of the Police Service; and
 - (b) be under the command and control of the Chief of Defence Staff and in these circumstances the Chief of Defence Staff shall not be subject to the general or special directions of the Minister, notwithstanding any written law to the contrary.
 - (2B) The Chief of Defence Staff shall, within three months of the commencement of the Miscellaneous Provisions (Defence and Police

Complaints) Act, 2013, make standing orders to establish a code of conduct to govern any member of a unit of the Defence Force referred to in subsection (2A), which shall be published in the *Gazette* and twice in two daily newspapers.

(2C) Where a member of the Defence Force has arrested any person pursuant to subsection (2A) he shall, without delay and in any event as soon as is reasonably practicable, hand that person and any items seized over to the senior police officer whom he is assisting or to the nearest police station and record or cause to be recorded the circumstances occasioning the arrest.”.

Mr. Chairman: And that would include the change?

Dr. Moonilal: To the long title.

Mr. Chairman: Yes, we are coming to that. That is later in the game.

Mrs. Persad-Bissessar: An amendment to the heading of the Bill?

Dr. Moonilal: Yes, they are coming to that.

Mr. Chairman: That is the last thing that we would do from a sequencing point of view. That would come later—

Dr. Moonilal: One second, please?

Mrs. Persad-Bissessar SC: Mr. Chairman, clause 2B, amended as circulated, but in Part capital (2A)(a) insert the after the words “Police Service” immediately before the semicolon “subject to subsection (2C), have the same powers, authorities, privileges and immunities as are given by law to members of the Police Service subject to subsection (2C)”. This way we have constrained the police powers being conferred. And this is capital “C”.

Mr. Chairman: So there is an amendment to the amendment.

Miss Mc Donald: An amendment to the amendment, to the amendment.

Mr. Chairman: Right? In (2A) sub (a), add after the word “Service” “subject to subsection (2C)”.

The question is that clause 2 be amended, as circulated, and further amended by the words that we have just outlined in (2A) after the “Police Service” “subject to subsection (2C)”.

Question put and agreed to.

New clause 5.

Dr. Moonilal: Insert after clause 4 as renumbered, the following clause:

- “Chap. 15:05 amended 5. Section 4 of the Police Complaints Authority Act is amended in the definition of “police officer”:
- (a) In paragraph (b), by deleting the words “, and” and substituting the word “;”;
 - (b) In paragraph (c), by deleting the words “Police Act,” and substituting the words “Police Act; and”;
 - (c) By inserting after paragraph (c), the following paragraph:
 - “(d) a member of the Defence Force charged under section 5(2) of the Defence Act with the duty of assisting any member of the Police Service in the maintenance of law and order and is engaged in so doing.”.

New clause 5 read the first time.

Question proposed: That the new clause 5 be read a second time.

Question put and agreed to.

Question proposed: That the new clause 5 be added to the Bill.

Question put and agreed to.

New clause 5 added to the Bill.

New clause 6.

Dr. Moonilal: Insert after the new clause 5, the following clause:

- “Duration 6. This Act shall continue in force for a period of two years from the date of its commencement.”

New clause 6 read the first time.

Question proposed: That the new clause 6 be read a second time.

Question put and agreed to.

Question proposed: That the new clause 6 be added to the Bill.

Question put and agreed to.

Defence (Amdt.) Bill, 2013

Friday, March 15, 2013

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of _____members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this _____ day of _____, 2013.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of _____members of the Senate.

Clerk of the Senate

I confirm the above.

President of the Senate”.

Question put and agreed to: That the Bill as amended, be reported to the House.

House resumed.

Bill reported, with amendment.

Question put: That the Bill be now read the third time.

Mr. Speaker: Hon. Members, this Bill as you know requires a special majority. A division will be taken.

The House divided: Ayes 29 Noes 11

Defence (Amdt.) Bill, 2013

Friday, March 15, 2013

AYES

Moonilal, Hon. Dr. R.
Persad-Bissessar SC, Hon. K.
Warner, Hon. J.
Dookeran, Hon. W.
Mc Leod, Hon. E.
Sharma, Hon. C.
Ramadhar, Hon. P.
Gopeesingh, Hon. Dr. T.
Peters, Hon. W.
Rambachan, Hon. Dr. S.
Seepersad-Bachan, Hon. C.
Khan, Mrs. N.
Roberts, Hon. A.
Cadiz, Hon. S.
Baksh, Hon. N.
Griffith, Hon. Dr. R.
Baker, Hon. Dr. D.
Ramadharsingh, Hon. Dr. G.
De Coteau, Hon. C.
Khan, Hon. Dr. F.
Douglas, Hon. Dr. L
Indarsingh, Hon. R.
Samuel, Hon. R.
Roopnarine, Hon. S.
Ramdial, Hon. R.
Alleyne-Toppin, Hon. V.

Defence (Amdt.) Bill, 2013

Friday, March 15, 2013

Seemungal, Hon. J

Partap, Hon. C.

Volney, Hon. H.

NOES

Mc Donald, Miss M.

Rowley, Dr. K.

Cox, Miss D.

Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

Jeffrey, F.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Housing and Marine Affairs (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that this House do now adjourn to March 22, 2013, at 1.30 in the afternoon and on that day will be Private Members' Day and the Chief Whip would indicate the nature of business for that day.

Mr. Speaker: Chief Whip, can you advise us?

Miss Mc Donald: Mr. Speaker, I hereby give notice to this House that on March 22, Private Members' Day, we will be looking at Motion No. 1 under Private Business.

Question put and agreed.

House adjourned accordingly.

Adjourned at 6.55 p.m.